

COPY

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JOHN MARSHALL COURTS BUILDING

-----x
PHILIP MORRIS COMPANIES, INC., et al.,

-against- Plaintiffs,

At Law No.
760CL94X
00816-00AMERICAN BROADCASTING COMPANIES,
INC., et al.,Defendants.
-----xJune 27, 1995
11:30 a.m.

Continued videotaped deposition of VICTOR HAN,
taken by Plaintiffs, pursuant to adjournment, at
the offices of Proskauer Rose Goetz & Mendelsohn,
Esqs., 1585 Broadway, New York, New York, before
Jack Finz, a Certified Shorthand Reporter and Notary
Public within and for the State of New York.

**MANHATTAN**
REPORTING CORP

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A P P E A R A N C E S:

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2445 M Street, N.W.
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BY: JOHN PAYTON, ESQ.,
-and-
DENISE ESPOSITO, ESQ.,
of Counsel.

ALSO PRESENT:

RUSSELL FINZ, C.L.V.S.
Action Legal Video, Inc.

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han - Volume 3

Page	Line	Correction
408	15	Omit the second "just"
412	10	Change "actually" to "also"
443	24	Change "reflecting" to "collecting" Change "then" to "them"
494	17	Change "report" to "record"
510	15	Change "smoking" to "spiking"
513	22	Insert "or not" between "whether" and "this"
555	5	Insert "Companies" between "Morris" and ", Inc."
564	5	Add "4/1" after "IAQ."
570	ALL	[There are two identical pages numbered 570]
583	18	Omit entire line
587	7	Change "thing" to "saying"

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Victor Han

SUPPLEMENTAL **ERRATA SHEET**

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 3		
Page	Line	Correction
460	15	"we" instead of "they"
493	21	"solubles" instead of "insolubles"
507	24	"But" instead of "you know"
510	15	"spiking" instead of "smoking"
548	9	"GRAS" instead of "GRS"
549	10	"G-R-A-S" instead of "G-R-S"
555	5	Morris Companies Inc.

Victor Han

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1
2 THE VIDEO OPERATOR: This is the
3 video operator speaking, Russell Finz, of Action
4 Legal Video, 132 Nassau Street, New York, New
5 York. We are here on this day, June 27, 1995, at
6 the time continuously recorded on the videotape,
7 at the offices of Proskauer Rose Goetz &
8 Mendelsohn, 1585 Broadway, New York, New York, to
9 continue the videotape deposition of Victor Han
10 on behalf of the defendants in the matter of
11 Philip Morris Companies, et al., versus American
12 Broadcasting Companies, Incorporated, et al, in
13 the Circuit Court for the City of Richmond,
14 Virginia, John Marshall Courts Building, At Law
15 No. 760CL94X00816-00.

16 This is the beginning of Tape Number
17 7. Will counsel please introduce themselves.

18 MR. PAYTON: John Payton for
19 defendant.

20 MS. ESPOSITO: Denise Esposito for
21 defendant.

22 MS. ROBBINS: Barbara Robbins for
23 plaintiffs.

24 THE VIDEO OPERATOR: The witness
25 remains under oath.

V I C T O R H A N ,

resumed, having been previously duly sworn, was
examined and testified further as follows:

CONTINUED EXAMINATION

BY MR. PAYTON:

11:31:58 Q. Good morning, Mr. Han.

8 A. Good morning.

11:32:00 Q. Just to take us back to where we left
10 off, when we concluded on June 9 we were talking
11 about the Day One broadcast of February 28, and I
12 think we were discussing cigarettes, the
13 manufacturing process, whether or not it was
14 complicated, cigarette ingredients. Do you
15 remember all that? That's just just where we
16 left off.

17 A. Generally speaking, yes.

11:32:30 Q. Did you review your testimony, the
19 testimony of that date, June 9, or your testimony
20 of March 16?

21 A. I skimmed both.

11:32:38 Q. Both. Did you review anything else?

23 A. Some memos. That was about it.

11:32:48 Q. What were the memos?

25 A. One was, I think, a Bill Campbell

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1 Han

2 letter -- sorry, letter to the employees. I'm
3 not sure if it was the original complaint, but a
4 legal document as well.

5 That's just about it. Some E-mails.

11:33:16 6 Q. The E-mails we have been discussing
7 or some other E-mails?

8 A. No, the same E-mails that we've
9 discussed, I think.

11:33:24 10 Q. The Campbell letter is the March
11 Campbell letter, March 1994?

12 A. I don't know the date.

33:34 13 Q. Did you discuss with anyone their
14 deposition testimony in this case?

15 A. No.

11:33:42 16 Q. Have you, in addition to skimming the
17 two transcripts, have you thought about your
18 testimony?

19 A. No, I really haven't.

11:33:50 20 Q. Is there anything that you recall
21 having testified to that you would like to add to
22 or change?

23 A. Not at this time. But probably
24 later, when I have a chance to look at the
25 transcript more carefully.

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11:34:16 2 Q. I'm going to go back and pick up a
3 second thread of sort of what we have been
4 talking about.

5 I wanted to go back to February 25,
6 1994. That's the second day of the two days of
7 discussions, meetings, that were held dealing
8 with, among other things, the questions that had
9 been put to Philip Morris by Day One.

10 A. Okay. Yes.

11:36:06 11 Q. And in the course of those meetings
12 you received a copy of a draft letter by FDA
13 Commissioner Kessler. Do you recall that?

14 MS. ROBBINS: I don't recall that he
15 said in the course of the meetings. I think the
16 testimony was that the letter was received on the
17 25th. I don't know that there was testimony that
18 that was in the course of a meeting.

11:36:50 19 Q. Mr. Han, let me just hand you a set
20 of previously marked exhibits. That in front of
21 you right now is Han Exhibit Number 10. Do you
22 recall reviewing that? I believe on June 9 I
23 asked you some questions about that.

24 A. Yes.

37:16 25 Q. What you have there is a fax of a
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1 Han

2 draft letter from Commissioner Kessler, and then
3 there's a retyped version of it so that you could
4 read it.

5 A. That's correct.

11:37:28 6 Q. And it was retyped, I believe, by
7 someone at the Tobacco Institute. Do you see
8 that? The second faxed page indicates that
9 Brennan Dawson received this, and that there's an
10 attached clean version --

11 A. Which she retyped.

11:37:50 12 Q. -- which she retyped.

13 A. Right.

11:38:00 14 Q. Do you recall testifying in March
15 that you received this fax, this draft of the FDA
16 letter, during the discussions or certainly on
17 the day of the 25th of February 1994?

18 MS. ROBBINS: That's a compound
19 question. Either will do? I object. That's a
20 compound question, John.

11:38:28 21 Q. Do you recall testifying that you
22 received this on February 25, 1994?

23 A. I recall receiving it during this
24 time period, 24th-25th. I realize that the
25 indication on the letter is 25, so that I assume

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1 Han

2 that's the date I got it.

11:38:46 3 Q. And the indication you are talking
4 about is the fax line at the top?

5 A. Yes.

11:38:52 6 Q. Which indicates that it was sent by
7 the Tobacco Institute on February 25? Do you see
8 that fax line?

9 A. I'm actually seeing two of them.
10 There's actually a February 25 notation from C&B,
11 Washington, D.C.

11:39:06 12 Q. They are both on the 25th.

13 A. Oh, and there's a third one. Okay.
14 Yes.

11:39:12 15 Q. There are three fax lines?

16 A. Yes, it appears to be.

11:39:14 17 Q. All the 25th of February?

18 A. Yes.

11:39:22 19 Q. And do you recall testifying that
20 this draft letter was the subject of meetings or
21 discussions that took place on February 25?

22 A. It was the subject in the sense -- my
23 recollection is that it was the subject in the
24 sense that it was discussed. To say that it was
25 the focus of specific meetings, meetings being

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1 Han

2 called specifically to address this, that I can't
3 recall.

11:39:54 4 Q. There were meetings that were taking
5 place to deal with the questions that Day One had
6 put to Philip Morris on the 24th and the 25th; is
7 that right?

8 A. There were meetings, yes.

11:40:08 9 Q. And this letter was discussed at one
10 or more of those meetings on the 25th, wasn't it?

11 A. Yes, it was, to my recollection,
12 right.

40:24 13 Q. And do you recall who was present
14 when this letter was discussed?

15 MS. ROBBINS: I believe that this has
16 been asked and answered.

17 A. I can -- I believe Chuck Wall and
18 Steve Parrish were present. I think there
19 possibly were others there, but their names I
20 don't recall, or faces. Which is not to say
21 there weren't other meetings that I wasn't privy
22 to.

11:40:54 23 Q. Do you remember if Mr. Bring was
24 present?

25 A. I do not recall. 2058457936

Han

11:41:16 Q. I want to focus on the text of the letter itself, and the page you have in front of you right now I believe is the first page of the retyped draft.

A. Correct.

11:41:30 Q. The letter begins by referring to some petitions from the Coalition on Smoking or Health that the FDA had received. Were you aware of those petitions?

A. Not before this incident, no.

11:42:08 Q. Going to the second paragraph there, the letter reads, "In consideration of the petitions, the agency has examined the current data and information on the effects of nicotine in cigarettes. The current data on the highly addictive nature of nicotine and other evidence now available to the FDA lead the agency to take a different approach from that urged in the petitions."

Did you know what data Mr. Kessler was referring to in this draft, at that time?

A. No, I do not -- did not.

11:42:58 Q. Do you see the end of that paragraph the last sentence says, "The structure of the

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1 Han

2 Federal Food, Drug and Cosmetic Act (the 'Act')
3 and sound public health policy suggest that the
4 focus should be on the presence of nicotine in
5 cigarettes in amounts associated with
6 addiction."

7 A. I see that.

11:43:18 8 Q. Did you know then what the amount of
9 nicotine it was that would be associated with
10 addiction?

11 MS. ROBBINS: I object to the form of
12 the question.

13 A. I sort of don't accept the premise of
14 that. That notwithstanding, I have no idea what
15 amounts we're talking about -- they're talking
16 about.

11:43:36 17 Q. Was this discussed on February 25?

18 DIR MS. ROBBINS: I've said now I think
19 at two different occasions the meetings and phone
20 conference calls and calls were attended by
21 lawyers and are privileged, and he is not going
22 to answer any questions about what was discussed
23 at these meetings.

24 MR. PAYTON: Do you want to instruct
25 him not to answer that question?

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1 Han

2 MS. ROBBINS: I instruct you not to
3 answer the question.

11:44:00 4 Q. And do you accept that instruction?

5 A. Yes, I do.

11:44:20 6 Q. Let's go to the fifth paragraph. The
7 fifth paragraph begins, "Evidence brought to our
8 attention." Do you see that, Mr. Han?

9 A. Yes, I do.

11:44:32 10 Q. "Evidence brought to our attention is
11 accumulating that suggests that cigarette
12 manufacturers may intend that their products
13 contain nicotine to satisfy an addiction on the
14 part of some of their customers. The possible
15 inference that cigarette vendors intend
16 cigarettes to achieve drug effects in some
17 smokers is based on mounting evidence we have
18 received that (1) the nicotine ingredient in
19 cigarettes is a powerfully addictive agent and
20 (2) cigarette vendors control the levels of
21 nicotine that satisfy this addiction."

22 Were you then aware of FDA concerns
23 that are contained in this paragraph?

24 A. You mean prior to reading this
25 letter?

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Han

11:45:20 Q. Yes, prior to reading this letter.

MS. ROBBINS: I object to the form of the question.

A. No, I was not.

11:45:54 Q. Do you see the next paragraph -- I'm going to the next to last sentence. It says, "It also appears that cigarettes enjoy a market that is based in part on the need of smokers --"

A. I'm sorry, I don't -- okay, there you are.

11:46:08 Q. Do you see where I am?

A. Yes.

11:46:12 Q. It says, "It also appears that cigarettes enjoy a market that is based in part on the need of smokers to satisfy that addiction. A Canadian survey suggests that 80 percent of the smokers believe they are addicted to cigarettes. Other data suggests that a comparable percentage of smokers are, in fact, addicted."

Were you aware of the Canadian survey that's being referenced in this paragraph?

A. No, I was not.

46:38 Q. Have you since had a chance to see

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1 Han

2 that Canadian survey?

3 A. No, I have not.

11:46:58 4 Q. To your knowledge, is this the first
5 time that the FDA, or actually any federal
6 government agency, had stated that the cigarette
7 market was based in part on the need to satisfy
8 an addiction? That's the sentence I just read.

9 A. Yes. I don't believe I had heard
10 that before.

11:47:50 11 Q. Did Philip Morris have a position on
12 that statement?

13 A. On --

11:47:56 14 Q. Whether or not its market was based
15 on need to satisfy an addiction.

16 A. Did Philip Morris have a position on
17 that?

11:48:04 18 Q. Yes.

19 MS. ROBBINS: At the time of the
20 letter?

21 MR. PAYTON: Yes.

22 A. Again, since that specific
23 phraseology had not come up, at least to my
24 recollection, a company position on that
25 particular issue I don't know had been created.

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1 Han

2 Yes, as far as that specific issue is
3 concerned, the way that it's put together here.

11:48:42 4 Q. Was that discussed on February 25?

5 MR. PAYTON: Are you going to let him
6 answer whether that was discussed?

7 MS. ROBBINS: I don't even know what
8 the "what" is. The specific sentence that you
9 talked about, was that sentence in this letter
10 the subject of discussion on February 25?

11 MR. PAYTON: Let me just rephrase
12 it.

11:49:06 13 Q. On the 25th of February 1994, was the
14 statement in this letter, that cigarettes enjoy a
15 market that is based in part on the need of
16 smokers to satisfy an addiction, discussed?

17 MS. ROBBINS: You can answer yes or
18 no, if you recall.

19 A. I cannot recall one way or the other.

11:49:42 20 Q. Now, the next paragraph, which
21 begins, "Moreover," do you see that?

22 A. Yes.

11:49:56 23 Q. Going to the third sentence. The
24 paragraph is about people trying to quit. The
25 third sentence reads, "At FDA we have approved a

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Han

number of pharmaceutical therapies for treating nicotine addiction, and many more are under development. These therapies, which include nicotine patches and nicotine gum, are essentially nicotine delivery systems. There is a growing market for these as well as nonpharmaceutical behavioral therapies."

A. I see that.

11:50:30 Q. You were aware at that time, February 25, 1994, of these products that were used by smokers desiring to quit smoking?

A. Yes, I was aware about the nicotine patches and nicotine gum prior to this letter.

11:51:04 Q. Do you know if Philip Morris viewed those products, the nicotine delivery products that were used by smokers desiring to quit, did Philip Morris view those products as competing products?

A. No, I don't believe so.

11:51:22 Q. Do you know?

A. It was never described that way in my presence.

11:51:34 Q. How were they described?

A. They weren't.

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Han

11:51:54 Q. Did Philip Morris view its cigarettes as nicotine delivery devices?

A. No, they did not.

11:52:04 Q. Have you ever heard that phrase used in connection with cigarettes?

A. Yes. That, and various forms of that, yes.

11:52:16 Q. Have you ever heard that phrase used in connection with cigarettes by Philip Morris personnel?

A. Well, yes, going back to the Dunne statement that's been quoted in the press many, many times since 1988.

MS. ROBBINS: I just want to state for the record that we are retreading more old ground, John, and I would ask you, please, I thought we were making progress because we made it up to the broadcast at the end of the last session, and now we are back to February 25, and you are now asking questions about things that he's answered before, like the Dunne sentence that you described. Could we please move forward?

MR. PAYTON: I don't believe I have
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1 Han

2 asked him up to now any questions about this
3 letter. And he gave me an answer.

4 MS. ROBBINS: That's not so. He
5 testified about this letter at his first
6 session.

7 MR. PAYTON: Not the substance of the
8 letter. You wouldn't let him --

9 MS. ROBBINS: I never told you he
10 couldn't testify about the substance of the
11 letter. I only said he was not to testify about
12 meetings held with lawyers at which this letter
13 was discussed.

11:53:14 14 Q. Apart from the comments that you
15 understood were attributed to Dr. Dunne, did you
16 know of any references to cigarettes as being
17 nicotine delivery devices that were made by other
18 Philip Morris persons?

19 A. No, I was not.

11:53:48 20 Q. Let's go to the next paragraph. It
21 reads, "Although technology was developed years
22 ago to remove nicotine from cigarettes and to
23 control with precision this amount of nicotine in
24 cigarettes, cigarettes are still marketed with
25 levels of nicotine that are sufficient to produce

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1 Han

2 and sustain addiction."

3 Did you know at that time that
4 technology had been developed to remove nicotine
5 from cigarettes?

6 A. Yes, I was aware of that.

11:54:16 7 Q. And to control with precision the
8 amount of nicotine in cigarettes?

9 A. No, that was not my understanding at
10 all.

11:54:32 11 Q. Was it your understanding that
12 nicotine at sufficient levels would result in
13 addiction?

14 A. No, that was not my understanding.

11:54:44 15 Q. Your understanding was that nicotine,
16 no matter what the level --

17 A. I'm sorry, if you're talking about
18 cigarettes, no, that was not my understanding.

11:54:58 19 Q. I see. You had an understanding
20 about nicotine in cigarettes that was different
21 from an understanding about nicotine --

22 A. Well, I have no knowledge about
23 nicotine specifically, per se, you know, by
24 itself.

55:14 25 Q. But your understanding was that, no
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1 Han

2 matter what the nicotine level in a cigarette,
3 that would not result in addiction?

4 A. My understanding is that the products
5 on the market, and whatever nicotine levels are
6 present in those products on the market, would
7 not cause addiction, that's correct.

11:55:40 8 Q. The next sentence in that same
9 paragraph reads, "In fact, it is our
10 understanding that manufacturers commonly add
11 nicotine to cigarettes to deliver specific
12 amounts of nicotine." Do you see that?

13 A. I see that.

11:55:58 14 Q. Do you remember if that statement was
15 discussed at the meeting on February 25?

16 MS. ROBBINS: You can answer yes or
17 no, if you recall.

18 A. Yes.

19 MR. PAYTON: And just so I understand
20 the objection here, so that we don't have to keep
21 doing this, you have instructed him that he
22 should not answer any questions about the
23 substance of any discussions concerning this
24 draft February 25 FDA letter?

25 MS. ROBBINS: Discussions had with
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1 Han

2 counsel, at a meeting attended by counsel, or in
3 conference calls at which counsel were on the
4 line, yes.

11:56:50 5 Q. And the meeting that I just asked you
6 about, where this was discussed, this sentence,
7 was a meeting attended by counsel?

8 A. Yes, it was.

9 MS. ROBBINS: Can we just clarify for
10 the record, I assume we are using meeting to mean
11 conference calls or various meetings that were
12 had kind of interchangeably. If that's true,
13 that's fine. I just want to be sure that the
14 record is clear.

15 MR. PAYTON: Yes, that is correct.

16 MS. ROBBINS: Fine.

11:57:26 17 Q. The last sentence of that paragraph
18 reads, "There is also evidence discovered in
19 recent litigation that some individuals involved
20 in the manufacture of cigarettes in the 1970s
21 regarded their products as nicotine delivery
22 systems." Do you see that?

23 A. Yes, I do.

11:57:42 24 Q. Was that sentence discussed at the
25 meeting on February 25 that was either attended

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1 Han
2 or participated in by counsel?

3 MS. ROBBINS: Yes or no.

4 A. I believe it was, yes.

11:58:12 5 Q. Let's go to the next paragraph. It
6 reads, "This evidence, along with the growing
7 body of data related to new products proposed for
8 the treatment of nicotine addiction from smoking,
9 suggests that cigarette vendors intended the
10 obvious, that many people buy cigarettes to
11 satisfy their nicotine addiction."

12 Did Philip Morris consider the
13 products that were designed for the treatment of
14 nicotine addiction, the chewing gum and the
15 patches, to be designed to deal with persons who
16 wanted to quit smoking?

17 MS. ROBBINS: I object to the form of
18 the question.

11:59:00 19 Q. Did you understand that?

20 A. Are you asking if Philip Morris as a
21 company understood that these products were for
22 people who wanted to quit smoking?

11:59:12 23 Q. Yes.

24 A. Yes, I think so.

11:59:24 25 Q. Did Philip Morris have a view then as

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1 Han

2 A. Well, that the success rate for
3 people who are using patches and gum are either
4 not much greater than other therapies or other
5 means of quitting smoking, or it's just slightly
6 better. But I think it's actually -- the success
7 rate is just about the same. Obviously, the
8 point there for me is that if nicotine in
9 cigarettes was addictive, as addictive as some
10 people say it was, especially in comparison to
11 heroin and cocaine, then, well, the patches and
12 gum would have probably a higher success rate,
13 and that basically would be it.

12:01:24 14 Q. Why is that?

15 A. Well, I think it points out that
16 nicotine isn't the sole reason for people
17 smoking. If it were the sole reason, then you'd
18 expect those therapies to be more successful.

12:02:18 19 Q. It is your understanding that the
20 treatments that would use nicotine patches, or
21 gum, or some other form of nicotine, were
22 designed to satisfy a nicotine addiction as
23 opposed to eliminate a nicotine addiction?

24 A. I couldn't speak to that. I'm afraid
25 I don't know.

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Han

12:02:36 Q. And the other therapies that you referred to, do you know what those were?

A. Well, it was referred to here, nonpharmaceutical behavioral therapies, and I would say that those are things like Smokenders, or individual means of quitting.

12:03:00 Q. So the other therapies did not use any nicotine at all?

MS. ROBBINS: I object to the form of the question. You can answer.

A. I can't say that. I mean, I suspect that there are some therapies where you cut down, so I guess that continues to use cigarettes. There are probably some therapies that you just stop smoking. I don't know.

12:03:38 Q. The next sentence of that same paragraph reads, "Should the agency make this finding based on an appropriate record, or be able to prove these facts in court, it would have a legal basis on which to regulate these products under the drug provisions of the act."

Was that sentence discussed at the meeting on February 25?

MS. ROBBINS: You can answer yes or
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1 Han

2 no, if you recall.

3 A. I don't recall.

12:04:14

4 Q. Was the issue of the potential
5 regulation of the cigarette industry discussed at
6 the meeting on February 25?

7 MS. ROBBINS: You can answer yes or
8 no, if you recall.

9 A. Yes.

12:05:28

10 Q. Did you realize on February 25 that
11 this letter was going to be a big news story?

12 MS. ROBBINS: I object to the form of
13 the question.

14 A. This specific letter would be a big
15 news story?

12:05:42

16 Q. Yes.

17 A. Was I aware of that or --

12:05:46

18 Q. Did you think that?

19 A. It is not something that I thought
20 about. It's probably more accurate that I don't
21 recall one way or the other whether I thought
22 about it.

12:06:10

23 Q. Did you understand on February 25,
24 1994, that this letter, which is in draft form in
25 front of you, was going to be issued that day in

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1 Han

2 final form?

3 A. Was I aware of that? I wasn't aware
4 of when it was released or sent out. I just knew
5 that it certainly was intended to go to Scott
6 Ballin at some point, whatever the date was on
7 the letter.

8 (Han Exhibit 24 for
9 identification, three-page letter dated February
10 25, 1994, to Scott D. Ballin, from Commissioner
11 Kessler, production numbers PA 100347 through PA
12 100349, and 2023913526 through 2023913528.)

07:34 13 Q. Mr. Han, I have had marked as Han
14 Exhibit 24 a three-page letter that is the final
15 version of the letter from Commissioner Kessler
16 to Scott Ballin, dated February 25, 1994.

17 A. Yes, sir.

12:07:54 18 Q. Do you recall seeing this final
19 version of the letter on February 25?

20 A. I'm afraid I don't have a
21 recollection one way or the other on that.

12:08:28 22 Q. On February 25, 1995, did Philip
23 Morris consider issuing a statement in response
24 to the draft FDA letter?

25 A. I do not know.

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1 Han

12:09:04 2 Q. The draft letter that you had came
3 from the Tobacco Institute, or from -- actually
4 the draft letter came from Covington & Burling to
5 Philip Morris' Washington office, and it appears
6 that Covington & Burling got it from the Tobacco
7 Institute. Do you agree with that?

8 A. That's what's indicated in the cover
9 sheet.

12:09:46 10 Q. Did you on February 25 have any
11 conversations with anyone at the Tobacco
12 Institute about this draft letter?

13 A. I do not have a recollection one way
14 or the other if I did or not.

12:10:02 15 Q. Given your own practices and
16 procedures, is it likely that you called somebody
17 up at the Tobacco Institute to talk to them about
18 this draft letter?

19 A. It's possible. It's possible.

12:10:26 20 Q. Is Brennan Dawson the person you
21 would have called up?

22 A. In situations where I would talk to
23 the institute, yes, Brennan would be my main
24 contact.

10:42 25 Q. Do you recall if on February 25 this

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1 Han

2 draft letter was viewed as a threat to the
3 industry?

4 MS. ROBBINS: I take it you mean by
5 Philip Morris, or by whom?

6 MR. PAYTON: To the tobacco
7 industry.

8 MS. ROBBINS: By --

9 MR. PAYTON: By Philip Morris.

10 A. Well, yes. I mean, generally
11 speaking, that's the way it was viewed, as a
12 potential threat.

12:11:26 13 Q. Do you recall now that the FDA letter
14 that came out on the 25th of February -- you have
15 seen the actual final letter -- did turn into a
16 news story, that it was covered in the print
17 press and in the electronic media?

18 A. No, I don't have a -- I do not have a
19 specific recollection of that, I'm afraid.

12:12:04 20 Q. Mr. Han, I want to show you what's
21 been previously marked as Carraro Exhibit Number
22 1. It's an exhibit that was used at Ms.
23 Carraro's deposition. Do you have that in front
24 of you?

25 A. Yes, I do.

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Han

12:12:30 2 Q. This is a collection of press clips
3 that I take it are collected by Philip Morris on
4 a regular basis.

5 A. FYI, that is correct.

12:12:44 6 Q. It is a series of them. The first
7 six pages are, I believe, the FYI AM that came
8 out on Monday, February 28, 1994.

9 A. Yes, right.

12:13:08 10 Q. And am I right that this comes out on
11 Mondays, or does it come out every day?

12 A. It is daily.

13:16 13 Q. So this is the Monday FYI AM -- by
14 the way, is there an FYI PM?

15 A. Not that I'm aware of.

12:13:24 16 Q. This is the Monday FYI that Philip
17 Morris puts out, and it collects stories that ran
18 on Saturday-Sunday, or is it Friday, Saturday,
19 Sunday?

20 A. The Monday would collect stories that
21 ran on Saturday-Sunday. If there is something
22 that they received late in the day on Friday,
23 depending upon importance, it would also include
24 it.

13:48 25 Q. And it also catches things that came

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1 Han

2 out the morning of. So it caught stories from
3 Monday the 28th as well?

4 A. Yes.

12:13:54 5 Q. Do you see that the first story that
6 is collected here is a story from the Wall Street
7 Journal, it's the whole first page, and it says
8 "FDA Cites Evidence of Cigarette Makers Keeping
9 Nicotine at Addictive Levels"?

10 A. I see that.

12:14:12 11 Q. Does this refresh your recollection
12 at all about the press coverage of the FDA
13 letter?

14 A. Well, I can see through these clips
15 that there was considerable coverage of the FDA
16 letter. I do not remember seeing any of these
17 stories.

12:14:26 18 Q. Do you remember talking to any of the
19 reporters about these stories?

20 A. No, I did not, personally.

12:14:38 21 Q. If you look at the Wall Street
22 Journal story, which is the first page right
23 there in front of you -- do you see that?

24 A. Yes.

14:46 25 Q. If you look through the third column,

2058457958

1 Han

2 about right in the center, there is a paragraph
3 that begins, "Mr. Lauria and cigarette company
4 officials deny that there is any deliberate
5 manipulation of nicotine levels in cigarettes."
6 Do you see that?

7 A. I see that.

12:15:04 8 Q. It says, "The companies argue that
9 cigarettes that are extremely low in nicotine
10 have failed to catch on with smokers. A few
11 years ago, Philip Morris Companies dropped Next,
12 a cigarette with its lowest nicotine level to
13 date, after 'it was rejected by consumers,' a
14 company spokeswoman said." Do you see that?

15 A. I see that.

12:15:26 16 Q. Do you know who would have spoken to
17 the Journal reporter?

18 MS. ROBBINS: Who is referred to in
19 this paragraph?

20 MR. PAYTON: Yes.

21 MS. ROBBINS: If you know.

22 A. I mean, I cannot tell you that I
23 know. I think I know who it probably was, but I
24 cannot say right now that I know exactly who it
25 was.

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Han

12:15:42 2 Q. Your judgment would be that that
3 would be Ms. Carraro?

4 MS. ROBBINS: That's a question?

12:15:48 5 Q. Or Ms. Daragan?

6 A. I would guess that it would be Ms.
7 Daragan.

12:16:12 8 Q. The lead on this story is "The Food
9 and Drug Administration" -- I'm just reading
10 it. "The Food and Drug Administration said there
11 is growing evidence that tobacco companies
12 deliberately maintain the level of nicotine in
13 cigarettes at addictive levels." Do you see
14 that?

15 A. I see that, yes, sir.

16 MS. ROBBINS: Where are you looking
17 at?

18 MR. PAYTON: I just read the lead.

19 THE WITNESS: It's the lead.

12:16:38 20 Q. Just turn through. You see the next
21 story is a Washington Post story on the FDA
22 letter.

23 MS. ROBBINS: Go ahead. I mean, it's
24 also on the ABC broadcast, and I think if you are
25 going to talk about the story, you ought to talk

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MANHATTAN REPORTING CORP.

1 Han

2 about what it is completely about.

3 MR. PAYTON: I will do that.

12:17:02 4 Q. The Journal story is only about the
5 FDA letter, and has some industry response.

6 MS. ROBBINS: I don't know that, that
7 you --

8 MR. PAYTON: I am representing that
9 it is. You can check and see.

10 MS. ROBBINS: Okay, that's fine.

12:17:08 11 Q. If you want to look at it, you can,
12 Mr. Han.

13 MS. ROBBINS: He doesn't need to.

12:17:12 14 Q. The Post story has a headline, "In
15 Policy Shift, FDA is Ready to Consider Regulating
16 Tobacco," and the lead is, "The Food and Drug
17 Administration said yesterday that it is prepared
18 to consider regulating tobacco products." Do you
19 see that?

20 A. Yes, I do.

12:17:28 21 Q. And then in the third column of the
22 story there is a reference, in the middle of the
23 third column, to the fact that "ABC News' Day
24 One, scheduled to be televised Monday--and an ABC
25 World News Tonight excerpt broadcast last night--

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MANHATTAN REPORTING CORP.

1 Han

2 describe the industry practice of fortifying
3 reconstituted tobacco to increase the nicotine
4 content."

5 And then there is a reference to the
6 RJR source in that. Do you see that?

7 A. I see that.

12:18:00 8 Q. And the story goes on to another
9 page, talking about the FDA, and the FDA, and a
10 Mr. Merryman. Do you know Mr. Merryman?

11 A. Yes, I do.

12:18:14 12 Q. He is a spokesperson or an official
13 at the Tobacco Institute?

14 A. Yes, he is.

12:18:18 15 Q. Do you recall now whether or not you
16 had spoken to Mr. Merryman at the Tobacco
17 Institute about the FDA letter?

18 A. I do not have a recollection, one way
19 or the other.

12:18:38 20 Q. Do you see the second column on the
21 second page, where the references are to Mr.
22 Merryman, and it says, about in the middle, "The
23 FDA letter, Merryman said, 'doesn't represent any
24 fundamental change in FDA policy.'" Do you see
25 that?

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Han

A. I see that.

12:18:56 Q. Did you know what he was talking about?

A. No, I cannot say that I do know what he's talking about, since I didn't speak to him about this, at least as my memory serves.

12:19:06 Q. And if you turn the page, you will see the next story that Philip Morris has clipped is a story from USA Today, Monday story. It has a headline, "Ban cigarettes? That won't work." And the subhead is, "Protect kids instead by halting sales to minors, raising taxes." Do you see that?

A. I see that, yes.

12:19:32 Q. And this story is also about the FDA letter?

MS. ROBBINS: Are you asking him that?

MR. PAYTON: No, I'm representing that.

MS. ROBBINS: Okay.

A. Okay.

MS. ROBBINS: Obviously "okay" doesn't mean anybody agrees with you. You are

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1 Han

2 just representing it.

3 MR. PAYTON: Yes, I was just
4 representing it, right.

5 MS. ROBBINS: Fine.

12:19:48 6 Q. Was there also during that same week,
7 that's the prior week, that ended on February 25,
8 was there a report by the Surgeon General about
9 smoking and juveniles? Do you recall that?

10 A. I recall the report. I mean, its
11 release date is not something that I do recall,
12 but I think I saw something about that in the --

13 MS. ROBBINS: I think if you look at
14 PA 100287.

12:20:14 15 Q. Yes, you will see that Mr. Merryman --

16 MS. ROBBINS: Discusses it.

12:20:18 17 Q. At the last three paragraphs of that
18 story.

19 A. "On Thursday, Surgeon General
20 Joycelyn Elders released the 23rd report on
21 smoking and health," yes, I see that.

12:20:26 22 Q. "An attack on cigarette marketing
23 aimed at young people."

24 A. I see that, yes.

12:20:28 25 Q. And that Thursday would have been the

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MANHATTAN REPORTING CORP.

1 Han

2 24th of February.

3 Do you remember that Surgeon
4 General's report now?

5 A. I remembered it first -- yes, I do
6 remember it.

12:20:48 7 Q. There is also a reference at the end
8 of that story, this is the Washington Post story,
9 that "Earlier in the week, McDonald's announced
10 it would ban smoking at all 1,400 of its
11 company-owned eateries, part of a growing trend
12 among fast-food establishments." Do you see that
13 reference?

14 A. I see that, yes.

12:21:08 15 Q. Do you remember that announcement?

16 A. Again, I remember the announcement,
17 but I can't remember the place or time.

12:21:24 18 Q. And the final clip of this bunch,
19 which is the February 28 clips, is an article
20 from Newsday, from Saturday, February 26. Do you
21 see that? And its headline is "A Cigarette Ban?
22 Hard to imagine." And the lead is again about
23 the FDA, "The Food and Drug Administration may
24 have the legal right to ban virtually all
25 cigarettes, based on mounting evidence that

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MANHATTAN REPORTING CORP.

1 Han

2 tobacco companies seek to foster nicotine
3 addiction, FDA Commissioner David Kessler said
4 yesterday."

5 A. I see that, yes.

12:23:00 6 Q. Let me show you -- this is already
7 marked. Mr. Han, let me show you an exhibit that
8 we marked last time, Exhibit 21. And this is a
9 fax you received from Mr. Parrish, attaching the
10 Tobacco Institute statement responding to the
11 FDA. Do you see that?

12 A. Yes, I do.

13 MS. ROBBINS: I don't know whether
14 it's a draft, or what it is. It certainly says
15 at the top of it "For TI use in responding to
16 media inquiries." I don't know whether it's a
17 statement or a draft or what it is. I don't
18 think anybody has testified as to what it is.

12:24:00 19 Q. Do you remember, Mr. Han, if this was
20 a statement that the Tobacco Institute
21 disseminated in connection with the FDA letter?

22 A. I do not know.

12:24:42 23 Q. On Monday, the 28th of February, when
24 the FYI AM reflecting those news clips came
25 around, do you recall whether or not there was a

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1 Han

2 meeting at Philip Morris that you attended that
3 was called for the purpose of discussing the FDA
4 letter and reaction to the FDA letter?

5 MS. ROBBINS: Are you asking whether
6 based on the news clips that you have shown him a
7 meeting was called?

8 MR. PAYTON: No.

12:25:20 9 Q. I am just asking if on the 28th, the
10 same day these news clips are distributed, you
11 recall whether there was a meeting at Philip
12 Morris to discuss the FDA letter and any reaction
13 to the FDA letter.

14 A. There could have been, but I do not
15 have any recollection of such.

16 MS. ROBBINS: Can I just say for the
17 record that Carraro 1 is an FYI AM, as you
18 described it, John, for February 28, but also
19 attached is an FYI AM for March 1 and March 2,
20 and other FYI AMs. It's not simply the 28th.

21 MR. PAYTON: No, no. I thought I
22 actually said that. I said it was a collection,
23 and that the first six pages were the collection
24 from the 28th.

25 MS. ROBBINS: Okay. I had thought

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MANHATTAN REPORTING CORP.

1 Han

2 that you were saying that the whole thing was for
3 the 28th, but that's fine.

4 (Han Exhibit 25 for
5 identification, memorandum dated February 28,
6 1994, to The Members of the Executive Committee
7 from Samuel D. Chilcote, Jr.)

12:26:42 8 Q. Mr. Han, you have been handed what's
9 been marked Han Exhibit 25, a February 28, 1994
10 memorandum from Samuel Chilcote.

11 A. Yes.

12:26:54 12 Q. At the Tobacco Institute, to members
13 of the executive committee. And it attaches a
14 statement and a set of talking points on FDA
15 letter. It has production number PA 421530
16 through PA 421533, or 2023323175 through
17 2023323178.

18 Have you seen this before, Mr. Han?

19 A. Not that I recall.

12:27:50 20 Q. You haven't seen the cover memo
21 before?

22 A. Not that I recall.

12:27:54 23 Q. The first attachment is the
24 attachment that Mr. Parrish sent to you, so you
25 have seen that before?

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Han

A. I have seen that before.

Q. Do you know who the members of the executive committee of the Tobacco Institute were?

A. No, I do not.

Q. Do you see from the cover memo that the attached statement was developed to respond to the FDA's letter, and inquiries relating to the FDA's letter?

MS. ROBBINS: I object to the form of the question.

A. That's what it indicates in the cover memo.

Q. Did Philip Morris consider producing a statement on Monday, the 28th of February, to respond to the FDA's letter, and inquiries relating to the FDA's letter?

A. I do not know.

Q. Did you play any role in connection with the preparation of the statement that is attached, the 2/28/94 statement that Mr. Parrish had sent to you?

A. I don't believe so.

MS. ROBBINS: PA 421531?

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MANHATTAN REPORTING CORP.

1 Han

2 MR. PAYTON: Yes.

3 MS. ROBBINS: Again, I don't know if
4 it's a statement. All it says is "For TI use in
5 responding to media inquiries." I don't know if
6 it was issued as a statement or it was used to
7 respond to telephone inquiries. You can call it
8 what you want to and you can ask him what you
9 want to about it. But I don't know that it's a
10 statement.

11 MR. PAYTON: It may not be a
12 statement, but it is something that was developed
13 by the Tobacco Institute to respond to the FDA.
14 It may not have been issued as a statement. I
15 hear what you're saying.

12:30:10 16 Q. Did the Tobacco Institute produce
17 materials like this for its members to use
18 themselves in connection with media inquiries?

19 A. Well, I can only answer that with
20 respect to Philip Morris, and my recollection at
21 the time that I worked there is that they did
22 not. Which is not to say that it couldn't have
23 happened, but my recollection is that they did
24 not.

12:32:00 25 Q. Mr. Han, I believe I marked as an

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MANHATTAN REPORTING CORP.

1 Han
2 exhibit the February 28, 1994 statement that
3 Philip Morris issued. That should be in -- Han
4 20, so it should be in the materials in front of
5 you.

6 A. Yes, I see that.

12:32:26 7 Q. I want you to take a look at that
8 statement, and if you can at the same time take a
9 look at the material that the Tobacco Institute
10 produced on February 28.

11 What I want to ask is, looking at
12 these two statements, whether or not you can
13 recall if you or Philip Morris used the Tobacco
14 Institute statement in preparing the Philip
15 Morris statement.

16 A. I don't believe so, but I don't have
17 a recollection, one way or the other.

12:33:40 18 Q. Do you see the first sentence in the
19 Tobacco Institute statement is "Nicotine occurs
20 naturally in tobacco"?

21 A. Yes.

12:33:46 22 Q. And the first statement in the Philip
23 Morris statement is "Nicotine is a naturally
24 occurring substance in tobacco"?

25 A. Yes.

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MANHATTAN REPORTING CORP.

1 Han

12:33:52 2 Q. You drafted the Philip Morris
3 statement; is that correct?

4 A. I believe so, yes.

12:33:56 5 Q. And you don't remember using the
6 Tobacco Institute statement?

7 A. I don't have a recollection of doing
8 so, no, sir.

9 MS. ROBBINS: John, could I just
10 point out that the February 28 statement, if you
11 look at the cover memo of the February 28
12 statement, it says it was released to the wire
13 services between 1 and 1:30 today. And if you
14 look at the fax line on the exhibit from the
15 Tobacco Institute, it is February 28 at 3:54
16 p.m.

17 MR. PAYTON: That's the --

18 MS. ROBBINS: No, that's not the fax
19 line to Mr. Han, which appears to be March 1
20 above it.

21 MR. PAYTON: Right. This is the
22 version we have from Mr. Parrish to Mr. Han.

23 MS. ROBBINS: Yes. But, in other
24 words, the February 28 statement appears to have
25 been released to the wire before it got to Mr.

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1 Han

2 Parrish, before the Tobacco Institute draft,
3 statement, whatever it is, got to Mr. Parrish, is
4 my point.

5 MR. PAYTON: Yes, I understand. This
6 is not necessarily the only way Mr. Han would
7 have received this statement.

8 MS. ROBBINS: I'm just pointing
9 out --

12:34:58 10 Q. I'm simply pointing out, Mr. Han, the
11 clear similarities in the language, to see if
12 that helps you remember whether or not you had in
13 front of you or used the Tobacco Institute
14 statement in drafting the Philip Morris
15 statement.

16 A. Well, again, as I said before, I
17 don't have any recollection of using the TI
18 statement, or whatever this thing is, in the
19 drafting of the Philip Morris statement. I don't
20 believe that I did. And while you're saying
21 there's a lot of similarities, I guess two
22 things, the first sentence is somewhat similar.
23 It seems to me the rest is pretty different,
24 except for the factual nature of it, and facts
25 are facts.

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MANHATTAN REPORTING CORP.

1 Han

12:35:40 2 Q. I asked you on June 9 if you could
3 remember why the February 28 statement was
4 issued, and I believe you said you didn't really
5 recall, you didn't really remember why it was
6 issued. I want to ask you now whether or not you
7 can recall if the February 28 statement was
8 issued to respond to the FDA letter.

9 A. I'm sorry, I still don't recall.
10 Well, I don't recall, but at the head of it it
11 says, "In response to media coverage inquiries
12 regarding the nicotine content of cigarettes,
13 Philip Morris U.S.A. is releasing the following
14 statement." So based on that, it's on more of a
15 general issue than anything specific. But,
16 again, I don't have a recollection.

12:36:38 17 Q. The reason I was asking you to take a
18 look at the FYI AM of February 28 is to look at
19 the news stories which are covering the FDA
20 letter and nicotine content of cigarettes, to see
21 if that helps you remember whether or not the
22 statement is responding to inquiries that grew
23 out of the FDA letter.

24 MS. ROBBINS: The ABC broadcast is
25 also referenced in those articles, John.

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~~MANHATTAN REPORTING CORP.~~

Han

MR. PAYTON: In one of those articles, in the third paragraph, but in none of the leads.

Q. I'm just asking, Mr. Han, if this helps you recall whether or not what stimulated the statement was the FDA letter.

A. I'm sorry, I don't recall, I'm afraid.

Q. Mr. Han, do you remember if in drafting this February 28 statement you used, as a starting point, the February 25 statement?

A. I do not recall, I'm afraid. I can't remember.

MS. ROBBINS: Do you want him to look at the February 25 statement?

Q. Sure, you can look at that if you want. It is Han Exhibit 8.

A. I don't recall whether I did or not.

Q. In the February 25 statement, you are looking at it right there, the sentence, the second sentence, I will just read it out, "None of these ingredients and nothing done in the processing of tobacco or manufacture of cigarettes by Philip Morris increases the

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1 Han

2 nicotine in the tobacco blend above what is found
3 naturally in the tobacco." Do you see that?

4 A. I see that.

12:39:18 5 Q. That's the sentence that you pointed
6 to when I asked where had Philip Morris denied
7 the charge that you understood would be in the
8 Day One story. Do you remember that?

9 A. Yes, basically, I do.

12:39:42 10 Q. And I think I then asked you whether
11 or not that doesn't just say that any nicotine
12 that is added wouldn't go above the level of
13 nicotine naturally found in the tobacco. Do you
14 see that?

15 A. Yes, I see that, and I remember the
16 question.

12:40:00 17 Q. Would you look at the February 28
18 statement, the Philip Morris February 28
19 statement. Do you see the second sentence there,
20 "There is nothing done in the processing of
21 tobacco or manufacture of cigarettes by Philip
22 Morris that increases the nicotine in the tobacco
23 blend above what is found naturally in tobacco."
24 Do you see that?

25 A. I see that, yes.

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MANHATTAN REPORTING CORP.

Han

12:40:32 Q. The phrase has changed from "found naturally in the tobacco" to "found naturally in tobacco."

Do you recall editing that sentence?

A. No, I don't. No, I don't.

12:40:50 Q. Do you recall intending something different in the second sentence as opposed to the first sentence?

MS. ROBBINS: In that phrase?

MR. PAYTON: Yes.

MS. ROBBINS: By dropping the "the"?

MR. PAYTON: Yes.

A. No.

12:41:50 Q. Do you recall any discussion on Monday, February 28, about this sentence or that phrase, at any meetings at Philip Morris?

A. I don't have any recollection of specific meetings. Certainly, since this was released on that date, this statement was discussed with people. But I don't have a specific recollection of those.

12:42:26 Q. Do you understand that tobacco, different types of tobacco, have different levels of nicotine content?

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MANHATTAN REPORTING CORP.

1 Han

2 A. Different --

12:42:38 3 Q. Types of tobacco, burley, for
4 example, has a different nicotine content than
5 oriental.

6 A. Do I know that?

12:42:50 7 Q. Did you know that then?

8 MS. ROBBINS: Did you know it, not do
9 you know it.

10 A. I don't believe that I did.

12:43:20 11 Q. Is it your recollection that you
12 drafted both of these phrases in both of these
13 sentences?

14 A. Yes, to the best of my knowledge, I
15 did.

12:43:36 16 Q. What did you intend by the sentence
17 in the February 25 statement?

18 A. I'm not sure what you mean by what I
19 intended. It's what it is.

20 And obviously -- I mean, in response
21 to the -- do I have the right date on this?

12:44:28 22 Q. Yes, that's February 25, what you're
23 looking at, yes.

24 A. Well, this whole statement is
25 supposed to address the charge that ABC was going

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1 Han

2 to levy against the industry and the company.

12:44:48 3 Q. And that charge was that nicotine was
4 being added?

5 A. Spiked, the spiking of cigarettes
6 with nicotine, yes.

12:44:58 7 Q. The charge you had at this time was
8 simply that nicotine was being added. If you
9 want to look at the E-mails, which is Exhibit 2.

10 MS. ROBBINS: 7 to 8.

11 MR. PAYTON: Yes, page 7 to 8.

12 MS. ROBBINS: I'm sure it's 7 to 8.

45:28 13 Q. You see at the bottom of page 7 --

14 A. Artificially adding nicotine.

12:45:32 15 Q. Yes. "They will make the charge that
16 cigarette companies are artificially adding
17 nicotine to cigarettes." Okay?

18 A. I see that, yes.

12:45:40 19 Q. And it was in response to that charge
20 that you drafted this sentence; is that correct?

21 A. That's correct.

12:45:54 22 Q. And the question was, what did you
23 intend by this sentence?

24 A. Philip Morris does not add extra
25 nicotine to cigarettes.

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1 Han

12:46:28 2 Q. Well, if that's what you wanted to
3 do, why didn't you just put a period after
4 "nicotine"? Do you see what I mean, Mr. Han?

5 A. I see that, and I think what we're
6 trying to point out is that there's less -- I
7 mean, that nicotine is found in tobacco -- is
8 naturally found in tobacco.

12:47:02 9 Q. Okay, nicotine is naturally found in
10 tobacco, and the charge you were trying to
11 respond to was the charge that you were
12 artificially adding nicotine?

13 A. Yes.

12:47:12 14 Q. And I'm asking why you didn't simply
15 end your sentence at "nicotine."

16 MS. ROBBINS: He just answered that.

17 A. Yes, I thought I just answered that.

12:47:36 18 Q. Mr. Han, all this denies is that any
19 artificial addition doesn't go above the level of
20 nicotine that is found naturally in tobacco.

21 MS. ROBBINS: I object. That's your
22 reading of it, John.

23 MR. PAYTON: That is. I just read
24 the sentence, Barbara. I just read the
25 sentence.

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1 Han

2 MS. ROBBINS: Just a moment. For the
3 record, I know that that's ABC's reading of it,
4 and that you are entitled to have whatever
5 interpretation you think you want to have. That
6 doesn't mean that that's the only thing it says
7 or what it says.

8 MR. PAYTON: I'm asking him his
9 interpretation.

10 MS. ROBBINS: He has told you.

11 A. First off, yes, that is an
12 interpretation that you put forward to me last
13 time I was here. I believe I responded to that
14 question. And that certainly is not what was
15 meant when I wrote it.

12:48:16 16 Q. You said, "I can see how someone
17 could interpret it that way."

18 A. If you say so.

12:48:22 19 Q. That's what you said.

20 A. Okay.

12:48:24 21 Q. And --

22 MS. ROBBINS: He also said the rest
23 of his testimony, which is that it was not what
24 he intended, and he was the writer of it.

12:48:54 25 Q. The next time you drafted -- on the

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1 Han

2 February 28 statement, you don't recall at all
3 why you took out the article "the"?

4 A. No, I do not.

12:49:40 5 Q. Mr. Han, would you agree that both of
6 these statements, in the February 25 and the
7 February 28 Philip Morris statements, both of
8 those statements allow for there to be some
9 addition of nicotine by Philip Morris, as long as
10 that addition doesn't go over the level of
11 nicotine found naturally in tobacco?

12 A. Again, I realize that is your
13 interpretation of it. That was not what was
14 meant when we wrote it. And, quite frankly, as
15 far as I -- my recollection isn't very good about
16 this, obviously, but I don't believe at the time
17 that this statement was released that anybody
18 else interpreted it that way.

12:50:30 19 Q. The phrase is "nothing increases
20 above"; right? "Nothing increases the nicotine
21 in the tobacco blend above."

22 A. I see that, yes.

12:50:44 23 Q. And do you agree with me that that is
24 saying that "nothing increases above" allows for
25 there to be an increase?

2058457982

1 Han

2 A. Again, I can understand how -- I
3 understand that you interpret it that way, but
4 that is not what was meant when I wrote it. And
5 again, as I said before, my recollection is that
6 no one else interpreted it that way at the time.

12:51:40 7 Q. Mr. Han, as of the 28th of February,
8 Monday, the 28th of February, why didn't Philip
9 Morris respond to Commissioner Kessler's February
10 25 letter?

11 A. Well, I don't know that Philip Morris
12 did or did not.

52:04 13 Q. Are you aware of any response by
14 Philip Morris?

15 A. I just said I don't know if they did
16 or did not.

17 MS. ROBBINS: Do you mean by writing
18 a letter to Kessler? You characterized the
19 February 28 statement as in some way responding
20 to the letter. So I'm a little perplexed at your
21 question.

22 MR. PAYTON: Mr. Han doesn't recall
23 it being a response to the FDA letter.

12:52:26 24 Q. Isn't that correct?

25 A. I don't recall --

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1 Han

2 MS. ROBBINS: One way or the other,
3 is what he said.

4 A. -- one way or the other.

12:53:10 5 Q. Mr. Han, why didn't you watch the Day
6 One report the evening it ran, that Monday,
7 February 28?

8 A. It's possible that I was in transit.
9 I do not have a specific recollection as to why I
10 did or did not. I have two children, one was a
11 baby, still is a baby, and a dog, a whole slew of
12 other animals. So it's a busy household. I also
13 do the cooking.

12:54:44 14 Q. Mr. Han, do you remember that on
15 February 28, that same day, Monday, RJR wrote a
16 letter responding to Commissioner Kessler's
17 letter, wrote Mr. Kessler a letter, responding to
18 his letter?

19 A. If you're asking me whether I knew
20 that or was aware of that on February 28; is that
21 the question?

12:55:04 22 Q. Yes.

23 A. I don't recall that I was or was not.

12:55:28 24 Q. Do you remember talking to Maura
25 Payne around this same time about what RJR was

2058457984

MANHATTAN REPORTING CORP.

1 Han

2 considering doing with respect to the FDA letter?

3 A. I do not have a recollection of that,
4 no, sir.

12:55:40 5 Q. Or to Peggy Carter?

6 A. I do not have that kind of a
7 recollection, no, sir.

12:55:46 8 Q. Do you have any recollection of
9 talking to someone at RJR about their response to
10 the FDA letter?

11 A. I do not, no, sir.

12 (Han Exhibit 26 for
13 identification, document entitled "R.J. Reynolds
14 Responds to FDA.")

12:56:42 15 Q. Mr. Han, you have just been handed a
16 one-page document, which is a -- it is entitled
17 "R.J. Reynolds Responds to FDA." It has a
18 production number of PA 421136 or 2023002854. It
19 has a little press release at the top, and then
20 it has the text of a February 28, 1994 letter
21 from RJR to David Kessler.

22 Do you see this?

23 A. I see this, yes.

12:57:14 24 Q. Have you seen this before?

25 A. I don't believe that I have.

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MANHATTAN REPORTING CORP.

Han

12:57:26 Q. Do you recall having seen a copy of
the actual RJR letter that went out on February
28? Actually, I have only the first page.

A. I should probably look at that
first.

MS. ROBBINS: Good idea.

I have a whole one, if you would like
it.

MR. PAYTON: Yes, just show it to
him.

MS. ROBBINS: This is the letter.
I've never compared the two versions. I have a
hard copy letter to Kessler from RJR. I assume
it's at least reasonably close to what's here.
I've never tried to compare the two.

MR. PAYTON: I don't have both
pages. I assume that's the same.

A. I do not have a recollection of
seeing this letter, but I have to say that I
probably did. But I don't have a recollection of
it.

12:58:22 Q. The exhibit I just handed you, Han
26 -- is that correct?

A. Yes.

2058457986

Han

12:58:28 2 Q. -- has some handwriting on it. Do
3 you recognize the handwriting?

4 A. I do not recognize the handwriting.

12:58:36 5 Q. It says "COF," or something.

6 A. Right.

12:58:42 7 Q. And it seems to be signed "MAM."

8 A. I think I know who that is, but I
9 don't recognize the handwriting.

12:58:46 10 Q. You think that's Michael Miles?

11 A. Yes, sir, I think so. He didn't
12 write me a whole lot of notes.

59:06 13 Q. The little note says, "Should we have
14 sent a letter to Kessler?" Do you see that?

15 A. I see that, yes.

12:59:12 16 Q. Do you remember whether or not Philip
17 Morris ever wrote Kessler a letter responding to
18 his letter of February 25, his letter to Mr.
19 Ballin?

20 A. I do not know whether we did or did
21 not.

12:59:44 22 Q. You testified a couple of questions
23 ago, Mr. Han, that although you didn't have a
24 specific recollection of having seen the actual
25 RJR letter of February 28, 1994, let me just tell

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MANHATTAN REPORTING CORP.

1 Han

2 you that the copy that I have is from your
3 files. But you thought that you probably would
4 have seen it, is what you said.

5 A. Yes.

01:00:08 6 Q. I'm just confirming that.

7 MS. ROBBINS: Thank you.

01:00:44 8 Q. Would you go back to the exhibit that
9 we marked, I've forgotten the number, which is
10 the February 28 memo from the Tobacco Institute
11 that has the two attachments.

12 A. Yes.

01:01:04 13 Q. The first attachment is for -- it
14 says "For TI use in responding to media
15 inquiries."

16 A. I see that.

01:01:12 17 Q. Would you go to the next attachment,
18 which is entitled, it's a page and a half, that
19 says "Talking points on FDA letter."

20 A. Yes, sir.

01:01:18 21 Q. Do you see that?

22 A. Yes, sir.

01:01:20 23 Q. Have you seen that before?

24 A. Not before today, no, sir, not to my
25 recollection.

2058457988

1 Han

2 MR. PAYTON: Let's take a short
3 break.

4 THE VIDEO OPERATOR: It is 1:02, and
5 we are off the record.

6 (A recess was taken.)

7 THE VIDEO OPERATOR: It is 1:09, and
8 we are back on the record.

9 BY MR. PAYTON:

01:09:46 10 Q. Mr. Han, could we now go back to the
11 transcript. It's Han 23.

12 Before she finds that, the February
13 28 statement that you drafted for Philip Morris,
14 that we were looking at --

15 A. Yes.

01:10:40 16 Q. -- do you know if there are prior
17 drafts of that statement?

18 A. Of the --

01:10:46 19 Q. Yes.

20 A. The 28th statement?

01:10:50 21 Q. Yes.

22 A. I'm sorry.

23 MS. ROBBINS: That's this one.

24 A. Well, I don't know, but -- I don't
25 know if there were or not. There probably were.

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MANHATTAN REPORTING CORP.

1 Han

01:11:04 2 Q. Did you search your computer files
3 for prior statements of the February 28
4 statement?

5 A. About a month ago, I believe, or
6 maybe a little over a month ago, I searched my
7 computer files for anything and everything having
8 to do with the Day One broadcast. I did not find
9 this, I do not believe.

10 MS. ROBBINS: I sent you a letter,
11 John. We reviewed the documents that he found,
12 and the only document that had not been produced
13 to you was the document that I sent over to you.

01:11:34 14 Q. And that search was a search for any
15 statements?

16 A. Anything and everything that had
17 anything to do with ABC.

01:11:38 18 Q. Mr. Han, do you recall at any time
19 after February 28, or actually do you recall at
20 any time after February 25 going into your
21 computer files and deleting drafts of statements?

22 A. No, I have no recollection of that at
23 all.

01:12:10 24 Q. Do you have any recollection of going
25 into your hard files -- you said you kept

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MANHATTAN REPORTING CORP.

Han

notes --

A. Oh, you mean paper files, okay.

01:12:22

Q. You said you kept notes, drafts, paper files.

-- after February 28, and discarding, shredding, or whatever, any of your notes that relate to Day One or the FDA?

A. I have no recollection of doing that at all.

MS. ROBBINS: Are you saying that one way or the other, or you have no recollection of doing that?

THE WITNESS: I do not remember me doing that.

MS. ROBBINS: That was true of the previous question?

THE WITNESS: Yes.

01:12:50

Q. This is not you don't remember one way or the other? You don't believe you did this; is that what you're saying?

A. That's correct, yes.

01:13:00

Q. You have Exhibit 23 in front of you, which is a transcript of the February 28, 1994 Day One broadcast?

2058457991

1 Han

2 A. Yes.

01:13:10 3 Q. And we had gone over some part of
4 this on June 9. And if you go to the second
5 page -- I will tell you where we are in just a
6 second here. I believe I moved too quickly.

7 Still on the first page, where we
8 were when we ended was we were discussing, just
9 briefly, the 1988 Surgeon General's report, which
10 is about two-thirds of the way down of the second
11 column. Do you see that now?

12 A. Yes, I do.

13 13:56 Q. I think I asked you if you had
14 reviewed it, and you said only very briefly, or
15 you knew of its existence but you had not read
16 it.

17 A. The Surgeon General's report for
18 1988?

01:14:06 19 Q. Yes.

20 A. That's correct.

01:14:08 21 Q. And I asked you if you knew that
22 Dr. Henningfield was one of the authors of the
23 report.

24 A. At the time I did not realize that.

25 MS. ROBBINS: I'm trying to follow

2058457992

1 Han

2 along with my version.

3 MR. PAYTON: That's why I'm trying to
4 do that. Then it says, it goes, John Martin,
5 it's a short paragraph, "Dr. Jack Henningfield
6 reads the cigarette is essentially the crack
7 cocaine form of nicotine delivery." And it says
8 John Martin. "Now a lengthy Day One
9 investigation has uncovered perhaps --"

10 MS. ROBBINS: Got you.

01:14:50 11 Q. And it says, "Now a lengthy Day One
12 investigation has uncovered perhaps the tobacco
13 industries' last best secret."

14 Do you see that, Mr. Han?

15 A. Yes, sir.

01:15:00 16 Q. "How it artificially adds nicotine to
17 cigarettes to keep people smoking and boost
18 profits."

19 A. I see that, yes.

01:15:08 20 Q. Was it your understanding at the end
21 of these meetings, conversations, discussions, on
22 February 24-25, that, in fact, Philip Morris does
23 artificially add nicotine, although it is, to
24 your understanding, in very small quantities, to
25 its cigarettes?

2058457993

1 Han

2 A. No. Based on the discussions that we
3 do not artificially add nicotine, period, to
4 cigarettes.

01:15:40 5 Q. What does the use of SDA 4 denatured
6 alcohol, alcohol denatured with nicotine, do?

7 A. Yes, right, it's used as a vehicle
8 for flavoring. But, I mean, that's very, very
9 different from what this sentence is saying or
10 implying or the takeaway from the program.

01:16:02 11 Q. Let me break the sentence in half,
12 this part of the sentence in half. I want to
13 focus only on the artificially adds nicotine to
14 cigarettes.

15 A. Yes.

01:16:10 16 Q. Does Philip Morris -- did Philip
17 Morris artificially add nicotine to cigarettes?

18 A. Again, Mr. Payton, the meaning of
19 that, and the reality of the situation, are two
20 very, very different things. I mean, the notion
21 that the alcohol -- I mean, you can't even
22 measure the alcohol's contribution of nicotine in
23 the final product. It's too small. You can't
24 even measure it. And so you can break this
25 sentence up that way, but I still say that that's

2058457994

MANHATTAN REPORTING CORP.

1 Han

2 not a true statement.

3 Q. Okay.

4 A. It's certainly very misleading.

01:16:54 5 Q. Have you seen the complaint in this
6 case, the amended motion for judgment, or any of
7 the answers to interrogatories that Philip Morris
8 has filed?

9 A. Yes, sir, I have.

10 MS. ROBBINS: That was a compound
11 question.

12 MR. PAYTON: Either one.

13 MS. ROBBINS: Okay.

01:17:08 14 Q. Have you seen both of those, the
15 amended motion for judgment and the answers to
16 interrogatories that Philip Morris has filed?

17 A. I'm fairly certain I've seen the
18 amended motion. The interrogatories, I believe
19 I've seen two or three of them.

01:17:22 20 Q. Have you seen statements made by
21 Philip Morris in which Philip Morris has, in
22 fact, quantified the contribution of nicotine to
23 cigarettes by means of the use of SDA 4,
24 denatured alcohol?

25 A. I have a recollection of seeing

2058457995

1 Han

2 things like that, but the quantification, to my
3 understanding, is a calculation as opposed to any
4 kind of detection.

01:17:52 5 Q. And have you seen any measurement or
6 calculation of the contribution of nicotine to
7 cigarettes that occurs because, or occurred
8 because of the use of tobacco extract that Philip
9 Morris purchased as part of a flavor package?

10 A. I believe so, but I don't have a good
11 recollection of that.

01:18:34 12 Q. And is that another possible example
13 of artificially adding nicotine?

14 A. Not in my mind, not based on the
15 statement here.

01:18:40 16 Q. Why not?

17 A. Because you can't find it. You can't
18 find it.

01:18:46 19 Q. Your understanding that the nicotine
20 that is part of the flavor package that was used
21 in Merit, I believe, two Merit brands --

22 A. Right. Well, I guess. I mean, Merit
23 is the brand name. I don't know how many of the
24 Merit brands it was used in.

19:06 25 Q. That didn't artificially add nicotine

2058457996

1 Han

2 to the Merits?

3 A. You know, this sentence would be fine
4 if it said something to the effect in such
5 miniscule amounts that you can't find it, you
6 can't detect it in the final product. But that's
7 not what this says, that's not what it implies.
8 So I still feel this statement is false.

01:19:42 9 Q. And it's your understanding that the
10 use of a tobacco extract as a part of the
11 reconstituted tobacco process, that is, the
12 extracted solubles being added to the tobacco
13 sheet, is not a means of artificially adding
14 nicotine?

15 MS. ROBBINS: I object to the form of
16 your question.

17 A. First off, aside from here, I've
18 never heard the solubles referred to as extract.

01:20:12 19 Q. Okay.

20 A. And artificially adding? No. I do
21 not believe that that is a correct description of
22 that process.

01:20:44 23 Q. And if the term "tobacco extract," to
24 refer to the solubles extracted in the course of
25 the reconstituted tobacco process, were a term

2058457997

1 Han

2 that Philip Morris used to describe those
3 solubles, would that change your conclusion?

4 A. No, sir.

01:21:04 5 Q. And that's because that process would
6 not be adding nicotine?

7 A. It does not add nicotine, no, sir.

01:21:22 8 Q. Doesn't the process add or combine
9 the solubles to the tobacco sheet?

10 A. It returns the solubles to the
11 tobacco sheet. In fact, my understanding is what
12 it returns is less than whatever was there in the
13 first place.

14 MS. ROBBINS: I will belatedly object
15 to form of your question, the terminology in your
16 question.

01:21:58 17 Q. Is it your understanding that the
18 nicotine could be completely removed and not
19 returned to the tobacco sheet in the
20 reconstituted tobacco process?

21 A. I have no knowledge about that, one
22 way or the other.

01:22:18 23 Q. Do you know that some solubles,
24 potassium nitrate, for example, is not added to
25 the tobacco sheet as one of the solubles?

2058457998

1 Han

2 MS. ROBBINS: I object to the form of
3 your question.

4 A. I believe that's true, yes.

01:23:08 5 Q. Let's go to the next page. I'm going
6 to the next section that says "John Martin
7 voiceover," "And one thing smokers are supposed
8 to get is nicotine." Do you see that?

9 A. Yes, I do.

01:23:26 10 Q. This is the paragraph that I believe
11 is referring to the quotes from Dr. Dunne. I
12 don't have a video recorder; it probably wouldn't
13 fit in here.

14 MS. ROBBINS: Or a screen or a TV,
15 for that matter.

01:23:42 16 Q. I believe at this point in the
17 broadcast there is a visual that shows these
18 quotes that is in the text here.

19 A. I don't remember.

01:23:50 20 Q. It says, "Think of the cigarette
21 pack," and then, as, quote, "a storage container
22 for a day's supply of nicotine."

23 Do you recognize that quoted language
24 as what you understood to be what was in Dr.
25 Dunne's memos?

2058457999

1 Han

2 A. I don't know they're in Dr. Dunne's
3 memos. I know that these -- I mean, I can't tell
4 you right now that I recognize these as the exact
5 quotes, because I do not remember the exact
6 quotes.

01:24:18 7 Q. You never saw the exact quotes; is
8 that right?

9 A. Like the document itself?

01:24:24 10 Q. Yes.

11 A. No, I do not believe I ever did. But
12 obviously this general area, subject matter, is
13 something that, as I've said before, is familiar
14 to me, and has been familiar to me for quite a
15 long time.

01:24:48 16 Q. And is this your general
17 understanding as to what Dr. Dunne was supposed
18 to have said, the quotes that are in --

19 A. Generally speaking, yes.

01:25:00 20 Q. The next paragraph says, "It was here
21 in Winston-Salem, North Carolina, that the
22 manufacturing process began to change. The R.J.
23 Reynolds Tobacco Company pioneered a two-step
24 process to make cigarettes more cheaply and to
25 control the level of nicotine."

2058458000

1 Han

2 Was it your understanding that RJR
3 was a pioneer in developing the reconstituted
4 tobacco process?

5 A. I had no knowledge of that.

01:25:22 6 Q. Didn't know one way or the other?

7 A. No, sir.

01:25:32 8 Q. Do you know if reconstituted tobacco
9 was developed essentially as a cost-saving
10 measure?

11 A. That is my understanding, yes, sir.

01:25:50 12 Q. Let me go down two more headings,
13 past Don Barrett, just to place us on the page,
14 to John Martin, and John Martin is saying, "Don
15 Barrett sued the American Tobacco Company on
16 behalf of a client."

17 A. I'm lost, hold on. There it is.
18 I've got it, right.

01:26:08 19 Q. Then I'm going down to Don Barrett.
20 This is just to get us to where I am. It
21 says "Don Barrett: And they would take the
22 material, the dust, the tobacco dust that fell on
23 the floor, and they would sweep those up and they
24 would dump them into a big bin and they would use
25 that to make the so-called reconstituted

2058458001

~~MANHATTAN REPORTING CORP.~~

1 Han

2 tobacco." Do you see that?

3 A. I see that.

01:26:28 4 Q. Were you at that time, this is
5 February 28, or March 1, when you saw this, I
6 guess -- is that right, you saw the broadcast on
7 March 1?

8 A. Yes, that's right.

01:26:40 9 Q. Tuesday, March 1. Were you at that
10 time aware of how the reconstituted tobacco
11 process actually worked, how the manufacturing
12 process worked?

13 A. At that time, no, sir.

01:26:56 14 Q. I believe you said there was a
15 meeting on March 1 to discuss the broadcast. Do
16 you remember that?

17 A. Yes, sir.

01:27:06 18 Q. This was an early morning meeting; is
19 that correct?

20 A. That is my recollection, yes.

01:27:08 21 Q. And am I correct that this was a very
22 early morning meeting, like a 7:30 meeting?

23 A. I can't remember if it were 7:30 or
24 8:30, but I would say that it began probably
25 before 10, certainly. But I don't have an exact

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MANHATTAN REPORTING CORP.

Han

recollection.

01:27:30 Q. And who attended that meeting?

A. Well, there were several people there. The only ones that I can say for sure that I have a good recollection of being there I believe would be Ellen Merlo, Steve Parrish, Chuck Wall. I believe Murray Bring was in that meeting. My guess is that there were others, but I don't have a recollection.

01:28:04 Q. And at that meeting, was there a detailed discussion of the February 28 broadcast?

MS. ROBBINS: You can answer yes or no.

A. What do you mean by detailed discussion?

01:28:16 Q. Did the discussion go down issue by issue by issue, or allegation, or charge, or claim, or statement, fact?

MS. ROBBINS: Again, yes or no.

A. I can't recall.

01:28:30 Q. How long did the meeting last?

A. I do not recall.

01:28:42 Q. For example, do you recall if there

2058458003

MANHATTAN REPORTING CORP.

1 Han
2 was a discussion about how reconstituted tobacco
3 was described on the show and whether it was
4 accurate or inaccurate?

5 DIR MS. ROBBINS: Just a minute now.
6 There were lawyers present at this meeting.
7 There was discussion of the show and about the
8 show, and I don't think he should be answering
9 any questions about this meeting. I think they
10 are privileged.

11 MR. PAYTON: Just instruct him.

12 MS. ROBBINS: I am instructing you
13 not to answer the question.

14 THE WITNESS: Okay.

01:29:18 15 Q. And you accept the instruction?

16 A. Yes, sir.

17 THE VIDEO OPERATOR: It is 1:29.
18 This is the end of Tape Number 7 of the
19 deposition of Victor Han. 1:29, and we are off
20 the record.

21 (Luncheon recess taken at 1:30 p.m.)
22
23
24
25

2058458004

1 Han

2 A F T E R N O O N S E S S I O N

3 2:16 p.m.

4 V I C T O R H A N,

5 resumed, having been previously duly sworn, was
6 examined and testified further as follows:

7 THE VIDEO OPERATOR: Today is June
8 27, 1995. This is the beginning of Tape Number 8
9 of the deposition of Victor Han. It is 2:16, and
10 we are back on the record.

11 CONTINUED EXAMINATION

12 BY MR. PAYTON:

16:44 13 Q. Mr. Han, I asked you before we took
14 the lunch break, maybe an hour ago, if you had
15 deleted any of your files in your computer
16 database that related to the Day One story, or
17 responding to the Day One story, or the FDA
18 letter, and you said you had not.

19 A. To the best of my recollection, I did
20 not go in there with the specific purpose of
21 deleting any documents related to the ABC story,
22 no, sir.

02:17:14 23 Q. Are you saying that there was a point
24 in time when you deleted files that may have
25 included those files but for another purpose?

2058458005

1 Han

2 A. No. No. I just do not -- to tell
3 you the truth, what usually happens is that I'll
4 go out of town and when I come back my secretary
5 has cleaned up my screen.

02:17:46 6 Q. And do you know if your secretary or
7 anyone else has gone into your files and deleted
8 files that related to the Day One story or the
9 FDA letter?

10 A. I have no knowledge of that at all,
11 no, sir.

02:17:58 12 Q. And with respect to hard copies,
13 paper files, do you know if anyone has gone into
14 your hard files, your paper files, and removed or
15 deleted any files that relate to Day One or the
16 FDA?

17 A. No, sir, I do not.

18 (The following portion of the
19 transcript has been designated confidential and
20 is bound separately.)
21
22
23
24
25

2058458006

Han

02:20:28 Q. In your present position, which is
director of communications for worldwide
regulatory affairs -- is that correct?

A. It's actually vice president now.

02:20:36 Q. Vice president. Does that mean you
are an officer, being a vice president?

A. Yes, sir, I believe so.

02:20:44 Q. You are an officer of the management
company?

A. That's correct.

02:20:50 Q. To whom do you report now?

A. I report to Mark Firestone.

02:20:56 Q. What is his position?

A. Senior vice president, world
regulatory affairs -- worldwide regulatory
affairs.

02:21:06 Q. And Mr. Andrade, is he in worldwide
regulatory affairs currently?

A. I think, yes, he is currently.

02:21:20 Q. Is he also a vice president?

A. Yes, sir, he is.

02:21:28 Q. Do you know what he is a vice
president for?

A. I do not know the rest of that title.

2058458007

MANHATTAN REPORTING CORP.

1 Han

02:21:36 2 Q. Is he above you, or on the same
3 level?

4 A. I don't know. I think -- I don't
5 know.

02:22:02 6 Q. Let me come back to whether or not
7 Philip Morris adds nicotine in the course of the
8 manufacture of cigarettes. Let me just ask a, I
9 believe, very direct question.

10 To your knowledge, as of February
11 1994, did Philip Morris add nicotine in the
12 course of manufacturing cigarettes?

13 A. To the best of my knowledge -- well,
14 I didn't have any information one way or the
15 other. I mean, I did not have knowledge that it
16 did or did not.

17 MS. ROBBINS: This is prior to
18 February 28, or at any time in February?

19 MR. PAYTON: At any time in February,
20 right.

21 A. Well --

02:22:50 22 Q. I will be more precise. As of the
23 information that you had on February 25, on the
24 basis of that information, did Philip Morris add
25 nicotine in the course of manufacturing its

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MANHATTAN REPORTING CORP.

1 Han

2 cigarettes?

3 A. It is my belief that at that time I
4 did have an understanding that Philip Morris did
5 not do such a thing.

02:23:30 6 Q. Mr. Han, let me see if I understand
7 or if we are using the term "add" in the same
8 way. If Philip Morris in February, February 25,
9 1994, extracted solubles in the course of the
10 reconstituted tobacco process, and the solubles
11 contained nicotine, and instead of taking the
12 insolubles and turning them into a tobacco sheet,
13 it just threw the insolubles away, so all we have
14 are the solubles that were extracted, and we have
15 thrown away the rest.

16 A. Right.

02:24:16 17 Q. If Philip Morris took those extracted
18 solubles and added or combined them with some
19 other tobacco sheet, from some other line of
20 process, would that be adding nicotine?

21 MS. ROBBINS: I object to your
22 question. Added them to? I'm not sure what
23 you're asking.

02:24:36 24 Q. Took those solubles, and instead of
25 adding it to the tobacco sheet made from the

2058458009

1 Han

2 insolubles, it had thrown those insolubles away
3 and it added it to another set of insolubles that
4 had been turned into a tobacco sheet. Would that
5 be adding?

6 A. I guess I would say no. I would say
7 no, that would not be adding.

02:25:20 8 Q. How would you characterize that?

9 A. I would characterize it as returning
10 solubles to sheet.

02:25:44 11 Q. If Philip Morris purchased a quantity
12 of tobacco extract, that is solubles extracted
13 from tobacco, from an outside vendor who just
14 extracted solubles and, therefore, we had a unit
15 of extracted solubles that was sold as tobacco
16 extract, and Philip Morris added or combined, or
17 whatever the word is, that to tobacco sheet,
18 would that be adding?

19 MS. ROBBINS: When you say tobacco
20 sheet, you are talking about the base web?

21 MR. PAYTON: Yes.

22 MS. ROBBINS: From which solubles had
23 been extracted?

24 MR. PAYTON: I'm talking about a
25 tobacco sheet or base web or cellulosic fibrous

2058458010

1 Han

2 sheet that is a tobacco sheet to which the
3 solubles have not been added or combined.

4 MS. ROBBINS: But from which solubles
5 had been removed?

6 MR. PAYTON: Yes, solubles had been
7 removed from it.

8 A. I generally have problems with
9 hypotheticals like that. And also I'm a little
10 bit troubled about answering that since I would
11 believe that somebody with more technical
12 knowledge would be able to answer that, you know,
13 in an appropriate manner. I mean, I don't know
14 that what you're describing is even possible. I
15 just don't know.

02:27:08 16 Q. I'm not purporting to ask you a
17 hypothetical. I'm simply trying to find out what
18 you're intending by the word "add," or I'm not
19 sure what the word is you were using, when you
20 say -- returned, I think you said. Is that the
21 word you used?

22 A. Yes.

02:27:28 23 Q. Returned to the base web or the
24 tobacco sheet. I'm trying to understand what you
25 mean by that term.

2058458011

1 Han

2 When I asked you if Philip Morris
3 extracted solubles and threw away the insolubles,
4 therefore, there is no tobacco sheet any longer
5 from which this was extracted, and took those
6 extracted solubles and, you know, poured then
7 onto another tobacco sheet or base web, would
8 that be adding?

9 A. Right, and I said I would not say
10 so. I would not, in my own layman's views, would
11 not say that that was adding.

12 MS. ROBBINS: And I do object on this
13 basis, that is a hypothetical, because there is
14 certainly no basis for saying that Philip Morris
15 does that.

02:28:16 16 Q. To your knowledge, Philip Morris
17 doesn't do what I just described?

18 A. To my knowledge, no.

02:28:36 19 Q. And would your answer be the same,
20 that is, is this adding, that's the way you used
21 that term, adding --

22 A. I'll tell you what I would say would
23 be adding, is if we took something out of this
24 transcript here from the show, and if we had this
25 thick syrup that John Martin describes about, and

2058458012

MANHATTAN REPORTING CORP.

1 Han

2 we poured that onto tobacco, I would say that
3 that would be adding.

02:28:58 4 Q. Do you know if tobacco extract is
5 thick or thin?

6 A. I have no idea.

02:29:00 7 Q. Light or dark?

8 A. I have no idea.

02:29:08 9 Q. Whether or not it were thick or thin,
10 if it were poured onto the tobacco sheet, that
11 would be adding, wouldn't it?

12 A. In the manner described in this
13 program, yes, sir.

14 MS. ROBBINS: Tobacco extract as
15 defined the way Mr. Han uses tobacco extract.

16 THE WITNESS: That's correct.

02:29:30 17 Q. Mr. Han, I thought you weren't sure
18 what tobacco extract is.

19 A. I'm not sure what tobacco extract
20 is. I do not know what tobacco extract is,
21 except for just the definition that I think most
22 people would assume. Anybody familiar with
23 vanilla extract I think would have a notion about
24 tobacco extract along the same lines.

02:29:48 25 Q. And that would be?

2058458013

1 Han

2 A. A very concentrated -- a concentrated
3 liquid that has certain characteristics from the
4 thing that it was being concentrated down from.

02:30:06 5 Q. Why would an extract necessarily be
6 concentrated?

7 A. The only extract that I'm really
8 familiar with is vanilla extract, and flavoring
9 extracts of that sort. Again, from a lay
10 person's standpoint. And I think most people
11 would view, if you said extract, I think that a
12 lay person would put it in that same context,
13 because I don't think it's something that they
14 would come in contact with on a regular basis.

02:30:32 15 Q. And you are not familiar with how
16 that term is or isn't used at Philip Morris in
17 the course of the reconstituted tobacco process,
18 or are you?

19 A. No, I don't think that I am. But as
20 I said before, I've never heard the water
21 insolubles, in the papermaking process and the
22 recon process, ever described as extract.

02:31:00 23 Q. Or as a tobacco extract?

24 A. Or as a tobacco extract, no, sir.

31:06 25 Q. And would it change your view if, in

2058458014

1 Han

2 fact, it were described as a tobacco extract by
3 Philip Morris?

4 MS. ROBBINS: What view?

02:31:12 5 Q. Your view as to whether or not then
6 taking the extracted solubles and pouring them
7 onto the tobacco sheet would be adding.

8 A. Would that change my view if
9 that's -- no, sir.

02:31:32 10 Q. Would you agree with me that pouring
11 the tobacco extract would certainly be adding the
12 tobacco extract?

13 A. Which extract are we talking about?

02:31:44 14 Q. Does it matter if you don't really
15 know what the tobacco extract is?

16 MS. ROBBINS: I object. You are just
17 confusing the report, John.

18 A. Why wouldn't it matter? I mean, you
19 have a different definition of it obviously than
20 I seem to have. So I would like to get that
21 straight, which one you're talking about.

02:32:02 22 Q. Tobacco extract, as I'm about to use
23 the term, is the solubles that are extracted in
24 the process of the reconstituted tobacco
25 manufacturing process, and when that happens, and

2058458015

1 Han

2 you have the extracted solubles, I'm referring to
3 that as tobacco extract.

4 A. And I wouldn't agree with that
5 terminology. I would agree with the terminology
6 that's the implications that were in this
7 program. I mean, I think that that was pretty
8 clear, what they were trying to say here.

02:33:02 9 Q. Let me leave the terminology alone
10 for just a minute.

11 A. Okay.

02:33:04 12 Q. Let's just discuss the extracted
13 solubles. And I am just going to refer to them
14 as the extracted solubles. And those are the
15 extracted solubles that are extracted as one part
16 of the reconstituted tobacco process. Okay?

17 A. Okay.

02:33:24 18 Q. When the extracted solubles are
19 poured back onto the tobacco sheet, is that
20 adding?

21 A. No, sir, it's not. It's returning
22 it.

23 MS. ROBBINS: Asked and answered.

24 A. If you're asking me -- and I think I
25 have already answered this question about where

2058458016

1 Han

2 do I go -- sorry, what do I call adding. I've
3 referred you to comments in the show, and I would
4 consider that to be adding.

02:33:46 5 Q. And it would still be adding even --
6 or returning I guess is your word -- it would
7 still be returning even if the original tobacco
8 sheet, the fibrous material, were thrown away and
9 some other fibrous material were substituted in
10 its place?

11 A. Yes. Yes, sir.

02:34:00 12 Q. That would still be returning?

13 A. Yes, sir, it would be.

14 MS. ROBBINS: Asked and answered.

02:34:26 15 Q. Mr. Han, could you look at -- I just
16 have, I think, one, maybe two questions, about
17 the February 25 statement and the February 28
18 statement. I had asked you if you recalled
19 editing --

20 A. What happened to the 25th?

02:35:06 21 Q. The 25th is 8. And the 28th is --

22 MS. ROBBINS: The 28th he's got in
23 front of him.

02:35:10 24 Q. I believe I had asked you about the
25 editing of one sentence in there, one word,

2058458017

1 Han

2 actually. But what I would like to ask you is if
3 you look at the two of them together, I want to
4 know if you can recall why any of the other
5 differences between the two of them exist. I
6 mean, when you wrote the February 28 statement,
7 why you changed the February 25 or didn't use the
8 February 25 statement.

9 MS. ROBBINS: You want him to compare
10 the whole thing now, or are you talking about a
11 particular sentence?

02:35:46 12 Q. If you have an overall memory. You
13 didn't seem to remember very well the process you
14 went through to draft the February 28 statement.
15 Is that a fair --

16 A. That's correct, I do not have much
17 recollection of it.

02:36:00 18 Q. I am asking if looking at the two of
19 them you have any better recollection as to why
20 you brought some things from the 25th statement
21 and put them in the 28th statement, and why you
22 dropped other things and added other things.

23 A. No, I don't have a recollection, I'm
24 afraid.

36:22 25 Q. Do you recall if other people edited
2058458018

1 Han

2 your February 28 statement?

3 A. I have little doubt that some edits
4 were made by other people.

02:36:32 5 Q. No specific recollection?

6 A. No, sir. No pride of authorship,
7 either.

02:36:56 8 Q. The February 25 statement, which is
9 8, that was sent to Day One; correct?

10 A. That's my understanding, yes.

02:37:08 11 Q. Do you remember if it was sent to
12 anyone else? Was there any other distribution of
13 this statement?

14 A. I do not recall.

15 MS. ROBBINS: Outside of Philip
16 Morris, I assume you mean, John; right?

17 MR. PAYTON: Yes.

02:37:40 18 Q. Let's go back to the transcript,
19 which is Exhibit 23. I'm going down to the --
20 I'm on page 2 of what you have, Mr. Han, the
21 first column. I'm going down to a portion that
22 is by John Martin, and it says, "John Martin
23 voiceover: Day One commissioned a laboratory
24 analysis." Do you see that?

25 A. Yes.

2058458019

MANHATTAN REPORTING CORP.

1 Han

02:38:30 2 Q. And I'm actually going down to almost
3 the end of that. It says, "So here's what the
4 companies do in Step 2." I think this is what
5 you were referring to actually a little bit
6 earlier yourself. "They apply a powerful tobacco
7 extract." Do you see that?

8 A. Yes, sir.

02:38:50 9 Q. "They apply a powerful tobacco
10 extract containing nicotine and flavor to the
11 reconstituted tobacco."

12 Do you know if in its reconstituted
13 tobacco process Philip Morris adds flavors to the
14 extracted solubles before either one is applied
15 to the tobacco sheet?

16 A. I do not know, or I cannot recall
17 where in the recon process the flavorings are
18 added.

02:39:38 19 Q. Actually I want to go to the next
20 page of the transcript. And I'm going to --

21 MR. PAYTON: Barbara, I'm going to
22 the portion where Mr. DeBethesi -- I'm going to
23 read it.

02:39:54 24 Q. I can't think of any other way to get
25 you to it. It's the first column on the third

2058458020

MANHATTAN REPORTING CORP.

1 Han

2 page, Mr. Han. It reads, "I think any company
3 involved in the manufacture of tobacco." Do you
4 see that?

5 A. Yes, sir.

6 MR. PAYTON: Barbara?

7 MS. ROBBINS: Is it at the beginning
8 of DeBethesi or later on?

9 MR. PAYTON: No, it is like the
10 fourth reference to DeBethesi. Seventh
11 reference. It's his last reference, or almost
12 his last reference.

13 MS. ROBBINS: I see it.

02:40:30 14 Q. Mr. DeBethesi, it reads. "I think
15 any company involved in the manufacture of
16 tobacco and whose consumers are demanding a wide
17 range of tar and nicotine products, they have
18 blending and reconstituted tobacco techniques for
19 reaching those, that range of tar and nicotine in
20 their products." Do you see that?

21 A. Yes, sir.

02:40:50 22 Q. Do you recall any discussion of this
23 at Philip Morris on the morning after the
24 broadcast?

25 MS. ROBBINS: You can answer yes or

2058458021

1 Han

2 no.

3 A. I don't even know what you mean by
4 "this."

02:41:00 5 Q. The statements by Mr. DeBethesi,
6 describing what I just read.

7 A. I have no recollection of that.

02:41:06 8 Q. Do you know if Philip Morris has
9 blending and reconstituted tobacco techniques for
10 reaching that range of tar or a range of tar and
11 nicotine in their products?

12 A. I know that Philip Morris blends
13 tobaccos for its products. That's about the
14 extent of my technical expertise in that area.

02:41:24 15 Q. You are not familiar with what's
16 referred to here anyway as a reconstituted
17 tobacco technique?

18 MS. ROBBINS: I object to the form of
19 the question.

20 A. I don't know what that -- I have no
21 idea what that means.

02:41:52 22 Q. Part of the remainder of this first
23 column on page 3 discusses some patents that
24 relate to the tobacco industry. And as of
25 February 24, 25, 26, 27, 28, March 1 of 1994,

2058458022

1 Han

2 that whole period, were you familiar with any of
3 the patents that Philip Morris owned, had
4 assigned to it, that related to manufacturing
5 tobacco products?

6 A. No, sir.

02:42:30 7 Q. The bottom of this same column,
8 there's a reference to LTR Industries. Were you
9 then familiar with LTR Industries?

10 A. No, sir.

02:42:38 11 Q. There is a reference to
12 Kimberly-Clark. Were you then familiar with
13 Kimberly-Clark having any relationship to or
14 connection with the tobacco industry?

15 A. I understood Kimberly-Clark to have a
16 business relationship with Philip Morris, but the
17 nature of that relationship I did not know.

02:43:00 18 Q. Did you know if it had anything to do
19 with reconstituted tobacco?

20 A. No, sir.

02:43:20 21 Q. In the next column, that's the second
22 column on page 3, in the middle, there is a
23 reference to the low tar, low nicotine cigarette,
24 and --

25 MS. ROBBINS: Who is speaking, John?

2058458023

1 Han

2 MR. PAYTON: It is John Martin, Jack
3 Henningfield, John Martin, Jack Henningfield,
4 John Martin.

5 A. There you go, right.

6 MS. ROBBINS: Which reference?

7 MR. PAYTON: I am just going to read
8 what John Martin says. I'm just trying to get
9 you to where we were.

02:44:04 10 Q. John Martin says, "Jack Henningfield
11 of the National Institute of Drug Abuse argues
12 that these low yields, for the most part, are
13 attained not by removing nicotine but rather by
14 using filters and air holes. But smokers get
15 around this, he said."

16 Did you know at the time of the
17 broadcast, February 28, March 1, whether or not
18 smokers of low nicotine cigarettes compensated
19 for the low nicotine level by taking bigger
20 puffs, more puffs, some other compensation?

21 A. No. I did not know that at the time,
22 and I still don't believe that to be true.

02:44:56 23 Q. Have you seen any studies, one way or
24 the other, on this?

25 A. Have I seen studies? I have not read

2058458024

1 Han

2 the studies specifically. I've heard of studies
3 that exist. I use myself as an example, that I
4 used to smoke Marlboros, I now smoke Merit
5 Ultimas. I smoke exactly the same, if not less,
6 than I smoked before.

02:45:20 7 Q. How much is that?

8 A. Probably a little bit under a pack a
9 day.

02:45:44 10 Q. When you watched the broadcast on
11 March 1, you watched the broadcast along with
12 other people at Philip Morris?

13 A. I believe so. My recollection of
14 that is not good.

02:45:56 15 Q. Did you watch the broadcast after the
16 meeting that began in the morning of March 1?

17 A. I don't recall, I'm afraid. Sorry.

02:46:12 18 Q. And on that same day, March 1, I
19 believe Philip Morris issued a statement
20 responding to the Day One broadcast. Do you
21 recall that?

22 A. Is it in here someplace?

02:46:24 23 Q. It is in here. I was actually going
24 to ask you if you remember playing a role in the
25 drafting of that statement.

2058458025

1 Han

2 A. I need to look at it.

3 (Han Exhibit 27 for
4 identification, two-page document entitled
5 "Philip Morris Statement, March 1, 1994.")

02:47:06 6 Q. Mr. Han, you have just been handed a
7 two-page document, marked Han Exhibit 27. It is
8 entitled "Philip Morris Statement, March 1,
9 1994." It has production number PA 426583 and PA
10 426584, or 2023916191 through 6192.

11 Do you recognize this?

12 A. Yes, sir.

02:47:32 13 Q. Did you play a role in drafting this
14 statement?

15 A. I played a role, yes; that's a good
16 way of putting it.

02:47:40 17 Q. Did you draft it?

18 A. No, sir. I think that this was
19 something that was drafted by a number of people
20 at the same time. If I recall my role in this,
21 this was primarily as a typist. Or -- well, you
22 know what I mean.

23 MS. ROBBINS: On a computer.

24 THE WITNESS: Right.

02:48:02 25 Q. Why don't you just explain how this
2058458026

Han

statement was created.

A. I do not have a very specific memory of how it came about, but I do remember being at the keyboard, with at least two or three people behind me, sort of dictating, everybody making suggestions, I would make some of my own, and just keying it in.

02:48:30 Q. Who was present?

A. Well, I can't be a hundred percent certain. My guess is that Mr. Parrish was there, Ms. Merlo was there, probably one of the members of my staff, but I can't be a hundred percent certain. I don't use all caps.

02:49:10 Q. What do you make of that?

A. I just don't use all caps. I find it much more difficult to read.

02:49:18 Q. Did somebody else turn this into all caps?

A. No. I think I did it in all caps because I was told to do it in all caps.

02:49:38 Q. The second paragraph -- by the way, was this statement, the March 1 statement, responding to both the Day One story and the FDA letter? I mean, take a look at it. The second

2058458027

1 Han

2 paragraph, which I'm going to, is referencing the
3 FDA. But take a look at this, and turn the
4 page.

5 MS. ROBBINS: Please read the whole
6 thing so you can answer the question accurately.

7 A. I'm sorry. What was the question
8 again?

02:50:18 9 Q. Was this statement responding to both
10 the Day One broadcast of February 28, as well as
11 the FDA letter or inquiries prompted by the FDA
12 letter?

13 A. I cannot recall the specific event or
14 whatever that caused this statement to be written
15 and released. Reading it, obviously there is a
16 great deal of emphasis here on the FDA, but
17 obviously as well during this period of time
18 there was a lot of information in the media and
19 elsewhere regarding nicotine as a result of the
20 Day One program, and so to say -- I guess it
21 would be accurate to characterize this statement
22 as in some way addressing both of those
23 subjects.

24 You know, I can't tell you that this
25 was done because of the FDA letter or...

2058458028

Han

02:51:28 Q. The FDA letter, could you put that in front of you? It is Exhibit 24. I want you to take a look at the FDA letter, to see if the FDA, Commissioner Kessler, is accusing the tobacco industry of spiking with nicotine their cigarettes.

MS. ROBBINS: You want him to read the whole letter?

MR. PAYTON: If you have to to reach that judgment.

A. I can't write on this, can I?

MS. ROBBINS: No.

02:52:20 Q. Mr. Han, were you just asking if you could write on it?

A. Yes. I don't think so. I just wanted to mark places. But that's okay.

02:52:26 Q. I was going to give you another copy.

A. That's okay. Thanks.

Are you asking me in this letter whether or not Commissioner Kessler is accusing the industry of anything?

02:53:04 Q. Yes. I will ask it another way.

Did Philip Morris understand that the

2058458029

1 Han

2 FDA, and Commissioner Kessler specifically, was
3 by the February 25, 1994 letter accusing the
4 industry and/or Philip Morris of spiking with
5 nicotine its cigarettes?

6 MS. ROBBINS: You still can read the
7 letter.

8 MR. PAYTON: Yes.

9 A. Yes, sure. I mean -- let's see.

10 Well, he talks in the first page, in
11 the second paragraph, he speaks in terms of
12 evidence, other evidence now available to FDA.
13 I'm sure that he does not mean evidence that
14 makes, in his belief, the industry look good.

02:54:48 15 Q. You are now on page 2?

16 A. Yes, sir. "Evidence again brought to
17 our attention is accumulating that suggests that
18 cigarette manufacturers may intend that their
19 products contain nicotine to satisfy an addiction
20 on the part of some of their customers."

02:55:00 21 Q. And do you understand that to be a
22 charge of spiking?

23 A. Yes, sir.

02:55:14 24 Q. Any other examples?

25 A. I think there are. "Cigarette

2058458030

Han

vendors control the levels of nicotine to satisfy this addiction."

02:55:26 Q. Where is that?

A. Number 2 in the second paragraph on the second page.

02:55:30 Q. "Cigarette vendors control the levels of nicotine that satisfy this addiction," that's another example of an accusation of spiking by the --

A. Accusation, I'm sorry. You first asked me if he's accusing us of anything, so those are accusations that he's making about the industry.

02:55:50 Q. Are those accusations about smoking with regard to the industry?

A. Based on what I know now?

02:55:52 Q. Yes.

A. I would say that's pretty damn close, if it isn't all the way.

02:56:00 Q. Of the industry, okay.

Other examples?

A. The last paragraph, the phrase --

02:56:46 Q. The last paragraph on page 2?

A. 2, yes. The phrase "to control with

2058458031

1 Han

2 precision the amount of nicotine in cigarettes."
3 I would say, yes, I could interpret that, based
4 on what I know now, as a spiking charge, because
5 that would mean going up or down.

6 "It is our understanding," same
7 paragraph, "that manufacturers commonly add
8 nicotine to cigarettes to deliver specific
9 amounts of nicotine." That's a spiking charge.

10 Page 3.

11 I think that's probably about it.

02:58:02 12 Q. Was that the understanding, that is,
13 that this letter contained allegations of spiking
14 directed at the industry, was that the
15 understanding that Philip Morris had on February
16 25, 1994?

17 A. I do not know.

02:58:20 18 Q. Was that discussed in the meetings
19 that took place on February 25, 1994?

20 MS. ROBBINS: What's the "that" in
21 your sentence, John?

22 MR. PAYTON: That this letter was
23 accusing the industry of spiking with nicotine
24 its cigarettes.

25 MS. ROBBINS: You can answer yes or
2058458032

1 Han

2 no.

3 A. I don't recall.

02:58:40

4 Q. Do you recall if on the 28th of
5 February there was, in a meeting where you were
6 present, a discussion about the FDA letter
7 accusing the industry of spiking with nicotine
8 its cigarettes?

9 MS. ROBBINS: Just a moment.

10 Again, if you recall, you can answer
11 yes or no. Just yes or no.

12 A. Would you ask the question again?
13 I'm sorry.

02:59:06

14 Q. Yes. Do you recall if on the 28th of
15 February there was, in a meeting where you were
16 present, a discussion about the FDA letter
17 accusing the industry of spiking with nicotine
18 its cigarettes?

19 A. I mean, I would -- I'll say yes.

20 MS. ROBBINS: If you want to
21 elaborate on the yes without revealing the
22 substance of any discussion, that's fine, but I
23 don't want you to reveal the substance of any
24 discussion --

25 THE WITNESS: I can't.

2058458033

Han

02:59:58 Q. And do you recall if on March 1, at a meeting at which you were present, there was discussion about the FDA accusing the industry of spiking with nicotine its cigarettes?

MS. ROBBINS: Again, yes or no, if you recall.

A. I do not recall.

(Han Exhibit 28 for identification, document bearing production number PA 283544 and 2022997809.)

03:01:18 Q. Mr. Han, you have just been handed what's been marked Han Exhibit 28, a Philip Morris statement, or a document without a title, that has production number PA 283544, or 2022997809.

Do you recognize this?

A. Not really.

03:01:52 Q. Take a look at this and compare it to the March 1 statement. They are very, very close. And I am showing you this so that I can ask whether this looks more like what you would have drafted or prepared on your machine, or do you remember what the relationship between the two is.

2058458034

1 Han

2 A. I do not know the relationship
3 between the two. I note two inaccuracies. No, I
4 don't know the relationship between the two.

5 (Han Exhibit 29 for
6 identification, document entitled "Philip Morris
7 Responds to Allegations that the Company Adds
8 Nicotine to its Products.")

03:03:18 9 Q. Mr. Han, you have just been handed a
10 document marked Han Exhibit 29. It is a
11 multiple-page document, entitled "Philip Morris
12 Responds to Allegations that the Company Adds
13 Nicotine to its Products." It has production
14 number PA 421013, and it goes through PA 421020,
15 or 2022890953 through 0960.

16 Do you recognize this, Mr. Han?

17 A. I don't recognize the front page, no,
18 sir.

03:03:54 19 Q. You don't recognize the first page at
20 all?

21 A. No, sir. I don't recognize the
22 second page, either. That doesn't mean that I
23 haven't gotten it or I didn't get it. I don't
24 remember it. And the rest of the stuff as
25 attachments are things that we have been dealing

2058458035

1 Han

2 with, it looks like.

03:04:14 3 Q. Well, no. Keep going. The last
4 three pages, do you recognize the last three
5 pages? The third to last page is headed "SOTS
6 and B-roll package from March 1, 1994."

7 A. I do not recognize it. Again, that
8 does not mean that I did not receive it or see it
9 at some point.

03:04:42 10 Q. And the last page, which is entitled
11 "FDA Radio Actuality," and it says "Transcript,"
12 do you recognize that?

13 A. No, sir.

03:04:54 14 Q. What is a radio actuality?

15 A. How do you describe that? It is a
16 short radio news piece that essentially you
17 syndicate to the news departments at different
18 stations.

03:05:12 19 Q. Philip Morris would create it and
20 distribute it and news departments would use it?

21 A. Actually there are a number of firms,
22 not only in New York but, I mean, everywhere,
23 that provide that service.

03:05:30 24 Q. Is it part of a -- provide that
25 service? But it is a Philip Morris-generated

2058458036

1 Han

2 piece?

3 A. Yes.

03:05:46

4 Q. Let's go back to the first page.

5 This says, in the first text, at the very top, it
6 says, "The following is a summary report
7 highlighting Philip Morris U.S.A.'s
8 communications plan in response to an FDA letter,
9 ABC's Day One program and other media reports
10 which allege that cigarette companies add
11 nicotine to their products in an effort to
12 increase consumer addiction."

13 Do you remember there being a plan, a
14 Philip Morris plan?

15 A. No, sir.

03:06:38

16 Q. The second bullet item under
17 "Communications Efforts," which says "Drafted
18 response statement for Steve Parrish's use with
19 media on March 1, 1994," it says "See attached
20 statement," do you know what that's referring to,
21 Steve Parrish's use with media on March 1, 1994?

22 A. No, sir.

03:07:20

23 Q. Do you even know which is the
24 attached statement that refers to Steve
25 Parrish's --

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MANHATTAN REPORTING CORP.

1 Han

2 A. The presumption is that it's the one
3 that's in all caps, dated March 1, 1994. I don't
4 know.

03:07:40 5 Q. This is the one that you do recall
6 playing a role in its preparation?

7 A. Correct.

03:07:48 8 Q. You don't remember now that this
9 statement may have been created for Mr. Parrish's
10 use?

11 A. No, I don't recall.

12 (Han Exhibit 30 for
13 identification, two-page document, media calls
14 report for February 24-March 3, 1994.)

03:09:40 15 Q. Mr. Han, you have just been handed
16 what's been marked Han Exhibit 30. It's a
17 two-page exhibit, from the media calls report for
18 February 24 through March 3. It has production
19 number PA 426973 and PA 426974, and 2024015378
20 through 5379.

21 This is just two pages from the media
22 calls report that your office generated then; is
23 that correct?

24 A. It appears that way.

03:10:36 25 Q. This is a compilation of media calls

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MANHATTAN REPORTING CORP.

1 Han

2 that are received from Richmond, Louisville,
3 Cabarrus and Philip Morris U.S.A., is that
4 correct, put together or compiled?

5 A. Yes, sir.

03:11:04 6 Q. Could you turn to the second page? I
7 want to ask you about the first entry at the top
8 of the page. It's dated March 1, and it says
9 under the date Cabarrus. Do you see that?

10 A. Yes.

03:11:22 11 Q. And it is an inquiry from The Concord
12 Tribune. That's a newspaper in North Carolina;
13 is that right?

14 A. Yes, sir.

03:11:32 15 Q. And after the heading it's called the
16 request is entered here as wanting to know if
17 Philip Morris adds back nicotine to the product
18 and does Philip Morris store nicotine at the
19 Cabarrus facility, and it says, paren, i.e.,
20 55-gallon drums. Do you see that?

21 A. Yes, sir.

03:11:54 22 Q. And the response -- action taken is
23 the actual heading of the column, is, "Call was
24 referred to Vic Han New York. Vic responded to
25 Tribune. He told them we do not store nicotine,

2058458039

1 Han

2 nor do we add additional nicotine to the
3 product." Do you see that?

4 A. I see it.

03:12:10 5 Q. How did you know that Philip Morris
6 didn't store nicotine?

7 A. I probably either learned it during
8 this period of time or else I had to call
9 somebody to find out. But, I mean, I do not know
10 how I found out.

03:12:22 11 Q. You don't remember?

12 A. No, sir.

12:26 13 Q. And you didn't know you had to find
14 out; is that your memory?

15 A. Yes -- no. I do not know how I got
16 the information, but if I didn't learn it during
17 this period of time, I would have called up
18 somebody to find out what the answer was.

03:12:44 19 Q. And the second sentence there, which
20 says, "He told them we do not store nicotine, nor
21 do we add additional nicotine to the product."

22 A. Right.

03:12:54 23 Q. Do you recall this inquiry and your
24 response?

25 A. No, sir.

2058458040

Han

03:12:58

Q. Do you recall giving this response, that you don't add -- Philip Morris didn't add additional nicotine to the product?

A. I think that I've been -- the only thing that I can remember responding to the Day One accusations was point-blank to the reporters over the telephone, "We don't spike." Obviously, I do not recall any of these specific responses.

03:14:08

Q. Do you know today if Philip Morris stores nicotine at any of its facilities?

A. My understanding is that they do not.

03:14:20

Q. Do you know if Philip Morris stores tobacco extract at any of its facilities?

A. Again, whose definition of extract -- well, in either case, I don't know the answer to that.

MS. ROBBINS: I don't want to interrupt you, John, if you are at a particular place, but soon maybe we could take a break.

MR. PAYTON: We can take it now.

THE VIDEO OPERATOR: It is 3:14, and we are off the record.

(A recess was taken.)

THE VIDEO OPERATOR: It is 3:22, and

2058458041

MANHATTAN REPORTING CORP.

1 Han

2 we are back on the record.

3 (Han Exhibit 31 for
4 identification, two pages of E-mails, the first
5 from Karen Daragan dated March 3, 1994.)

6 BY MR. PAYTON:

03:23:18 7 Q. Mr. Han, you have been handed what's
8 been marked Han Exhibit 31, a two-page exhibit
9 that are two pages of a couple of E-mails. The
10 first one is dated March 3. They are not in
11 chronological order. The others are dated March
12 2. There's a couple of others. It has
13 production number PA 427007 through PA 427008, or
14 2024015412 through 5413.

15 Have you seen these E-mails before,
16 Mr. Han?

17 A. I don't recognize them.

03:24:08 18 Q. You didn't review them in preparation
19 for any of your depositions?

20 A. I don't believe so.

03:24:22 21 Q. Take a look at them. I mean, there
22 are four E-mails here. And if I go in order,
23 one, two, three, four, two and four are from you
24 to other persons. Do you see that?

25 A. Yes.

2058458042

Han

03:24:42 Q. I'm just --

A. Yes.

03:24:58 Q. They are in essentially reverse chronological order, so if I go to the one that is fourth on here, I believe it's the first one in time, and if you look at the date stamps, time stamps, I think you will see that.

A. Um-hum.

03:25:14 Q. Four is about an inquiry by a Bill Hendrick. Do you know who that is?

A. No, sir. I presume he's a reporter at the Atlanta Constitution.

03:25:26 Q. It says he's working on a package of stories, and then it says, "He will be covering FDA issue and would like to interview Parrish. He has requested tour of R&D facility," and then in parens it says, "I said no," "tour of plant," and then parens, "I said maybe," "interview with R&D scientist (I said no) and interview by phone with Parrish. He also asked for basic facts of company, (number of employees, plants, brands, U.S. sales, international sales)."

Do you recall this conversation with Mr. Hendrick?

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Han

A. No, sir, I don't.

03:26:20 Q. Do you remember why the request for a tour of the R&D facility was denied, or was it always denied?

A. The R&D facility is not open to outsiders.

03:26:32 Q. So it's always denied; that request is always denied?

A. Yes, sir.

03:26:38 Q. The response you gave to the tour of the plant, I take it that would be the manufacturing plant? Do you know what was being referred to there?

A. At this time, it could be -- yes, it's the manufacturing facilities based in Richmond.

03:26:56 Q. And that would include, for example, the part 500, the RL facility?

A. Knowing what I know now, yes.

03:27:08 Q. And the response to that was, "I said maybe." Do you know why you said maybe?

A. Generally speaking, at this time reporters were not given -- let me start back. There was a public tour that Philip Morris used

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MANHATTAN REPORTING CORP.

1 Han

2 to have of the plant. Certainly a reporter was
3 allowed to go on that public tour. The type of
4 tour that the FDA and the GAO took obviously was
5 not a tour at that time that was given to
6 outsiders.

03:27:52 7 Q. I take it this reporter wasn't asking
8 for the public tour? He was asking for a special
9 tour?

10 A. I do not recall.

03:28:00 11 Q. And why did you say maybe then?

12 A. I can only guess. I probably had it
13 already in my head to open the plants to the
14 media as much as possible.

03:28:18 15 Q. Was that part of a response to the
16 Day One story and the FDA letter and inquiries
17 that were coming?

18 A. I think it was probably more in
19 response to all of the things that were happening
20 as a result of the Day One program, the
21 realization that, while we had legitimate
22 concerns from a confidentiality standpoint and a
23 competitive standpoint in showing all parts of
24 the manufacturing process, I guess I believed
25 that we didn't have a problem with the process,

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MANHATTAN REPORTING CORP.

1 Han

2 we had a problem with everybody's perception of
3 why we kept it secret.

03:29:00 4 Q. And would that last answer also apply
5 to concerns that were raised by the FDA letter,
6 wanting to open things up a little bit because of
7 inquiries that were coming in because of the FDA
8 letter?

9 A. Well, again, as I said, certainly
10 that's part of the mix.

03:29:26 11 Q. Could you go back to the exhibit that
12 is the FYI clips. And could you tell me what the
13 exhibit number is?

14 A. 1.

03:29:44 15 Q. Yes, it's Carraro 1, that's right.
16 Could you turn to the place in the
17 clips that is the next day's clips? It starts
18 with February 28, and I think if you go to, I
19 think it's like the seventh page, you get the
20 clips for March 1.

21 MS. ROBBINS: What's the PA number?

22 MR. PAYTON: It is 91, 100291.

23 A. Okay.

03:30:26 24 Q. And this is the FYI AM for March 1,
25 1994. And it begins -- do they always begin with

2058458046

1 Han

2 the Wall Street Journal if the Journal has a
3 relevant story?

4 A. I don't know the answer to that.

03:30:34 5 Q. This one again begins with a Wall
6 Street Journal story. The head is "Tobacco
7 Stocks Take Hit on FDA News." Do you see that?

8 A. Yes, sir.

03:30:42 9 Q. And this story is again about the FDA
10 letter? I take it you don't remember this, but
11 you can take a look. I'm representing that's
12 what it's about.

13 A. Okay.

14 MS. ROBBINS: What's the question?

15 MR. PAYTON: I'm just pointing out
16 that there is continuing news coverage of the FDA
17 letter and reaction to the FDA letter on March 1.

03:31:36 18 Q. This is the Journal story. It has a
19 pickup page. There is also, if you go to the
20 third page, there is a story from USA Today which
21 refers to the Day One story and the FDA. Do you
22 see that?

23 MS. ROBBINS: Which page are you on?

24 MR. PAYTON: It's 293.

25 MS. ROBBINS: It is also on 292,

2058458047

Han

first column, "The nicotine controversy was sparked by an ABC News Day One investigation."

03:32:12

Q. And if you look at the third page, the second story, which is from Investors Business Daily, March 1, it says "Tobacco Takes A Hit From FDA Move To Take On Regulation." It's another story about the FDA.

What do you remember, Mr. Han, during this time period, being Philip Morris' focus as far as what they thought they had to respond to, the Day One story or the FDA, or were they just mixed together? I'm on March 1.

A. I don't have a recollection, I'm afraid. I do not recall.

03:33:34

Q. The E-mail we were just looking at, and this is the March 2 E-mail from you regarding the conversation you had with Bill Hendrick, if you go to the second page, actually the next to last paragraph makes a reference to RJR. Do you see that? It says, "Would also talk to RJR and see if they minded if I referred Hancock to them --"

MS. ROBBINS: Hendrick.

34:06

Q. "-- Hendrick to them and some of the

2058458048

MANHATTAN REPORTING CORP.

1 Han
2 outside scientists they have."

3 A. I see that.

03:34:12 4 Q. Did you talk to RJR about Mr.
5 Hendrick?

6 A. I do not have any recollection, one
7 way or the other.

03:34:20 8 Q. Do you know what you were referring
9 to with the phrase "outside scientists"?

10 A. Sitting here right now, I cannot tell
11 you what that means.

03:34:52 12 Q. Did you have some relationship with
13 RJR that you would refer reporters to RJR
14 scientists?

15 A. A formal relationship?

03:35:08 16 Q. No, no, no. I mean, do you know what
17 this is referring to at all, that you would ask
18 if you could refer a reporter to an RJR outside
19 scientist?

20 A. And as I said, I do not know what I
21 mean by the outside scientists.

22 MS. ROBBINS: It also says to them,
23 meaning RJR and some of the outside scientists,
24 not just outside scientists.

25 THE WITNESS: You're right, it could

2058458049

~~MANHATTAN REPORTING CORP.~~

Han

be read --

MS. ROBBINS: "Would also talk to RJR and see if they minded if I referred Hendrick to them."

03:35:34 Q. Do you know?

A. Oh, and some of the outside scientists they have. No, I don't know.

03:35:42 Q. Am I correct in reading that as referring to RJR outside scientists?

A. That's what it reads to me, yes.

03:35:50 Q. And you just don't know what that means?

A. No, sir, I don't.

03:36:02 Q. Did you talk to Mr. Parrish -- I take it Steve here is Steve Parrish?

A. Yes, sir.

03:36:06 Q. Did you talk to Mr. Parrish about this?

A. I'm sure I did, but I don't have any specific recollection of doing so.

(Han Exhibit 32 for identification, four-page document dated March 3, 1994, from William I. Campbell to All PM New York Office/Ryebrook Employees.)

2058458050

1 Han

03:36:44 2 Q. Mr. Han, you have been handed what's
3 been marked Han 32; is that correct?

4 A. Yes, sir.

03:37:02 5 Q. A four-page exhibit that's dated
6 March 3, 1994, from William I. Campbell to All PM
7 New York Office/Ryebrook Employees, production
8 number PA 100387 through PA 100390, or 2023916537
9 through 6540.

10 Is this the document from Mr.
11 Campbell that you recalled earlier today that he
12 had sent to Philip Morris employees? You said
13 you reviewed something in preparation for your
14 deposition. Is this what you reviewed?

15 A. I believe so.

03:37:46 16 Q. And did you play a role in the
17 creation of this document or the attachment?

18 A. No, sir.

03:37:54 19 Q. None at all?

20 A. No, sir.

03:38:00 21 Q. Do you know who drafted this?

22 A. No, sir.

03:38:52 23 Q. Do you remember receiving this?

24 A. No, sir. I'm sure that I did, but I
25 don't remember receiving it.

2058458051

Han

03:39:06 Q. Do you remember discussing this letter after it was distributed with someone at Philip Morris?

A. Not really. Except perhaps in passing, that it was distributed. But I don't remember having any discussions specific to this letter, to this, you know, letter or cover at all.

03:39:36 Q. Let's go back to Exhibit 2, which is the collection of E-mails. Let's go to page 8.

A. Okay.

40:04 Q. Where at the bottom of the page there is an E-mail from you, dated March 3, 1994, 3:27 p.m. Do you see that?

A. Yes, sir.

03:40:18 Q. It says, Subject: Day 2, which I take it means the upcoming -- do you know what that means?

MS. ROBBINS: Do you know what Day 2 means?

03:40:30 Q. Yes, do you know what Day 2 means?

A. I believe it means the second program.

40:38 Q. The text reads, "Met with Chuck and

2058458052

1 Han

2 Tony A with Carchman, Buffy on phone from
3 Washington, on Monday's upcoming segment of Day
4 One."

5 Am I correct that Chuck is Chuck
6 Wall?

7 A. Yes.

03:41:00 8 Q. And Tony A is Tony Andrade?

9 A. Andrade.

03:41:04 10 Q. And Carchman is?

11 A. Richard Carchman.

03:41:08 12 Q. Had you actually met Mr. Carchman, or
13 was he --

14 A. Had I met him physically, you mean?

03:41:10 15 Q. Yes.

16 A. At this point?

03:41:12 17 Q. Yes.

18 A. I have, probably, but I can't be
19 certain.

03:41:28 20 Q. You identified Mr. Carchman as one of
21 the scientists that was consulted by you or was
22 called on the phone during the February 24-25
23 time period, dealing with the inquiries from Day
24 One. Do you recall that?

25 A. Yes, sir.

2058458053

MANHATTAN REPORTING CORP.

Han

03:41:42 Q. And that was by phone? He wasn't physically present; is that right?

A. Well, those conversations for certain were on the phone. At some point, though, Dr. Carchman and others were in New York, but I just don't know exactly when that was.

03:41:58 Q. You think that might have been during the February 24-25 time period?

A. During which time period?

03:42:04 Q. February 24-25 time period.

A. No, I don't believe so.

42:10 Q. But at this time, which is March 3, Mr. Carchman was physically present in New York?

A. I believe.

03:42:20 Q. And Buffy is Buffy Linehan?

A. Yes, sir.

03:42:22 Q. The next sentence says, "The materials I had are out of date."

A. Yes, sir.

03:42:40 Q. Do you know what that's referring to?

A. The materials I believe referred to here are the contingency plan that would have been put into effect should the industry's ingredients list, or individual companies'

2058458054

MANHATTAN REPORTING CORP.

1 Han

2 ingredients list, leak out to the press.

03:43:10 3 Q. And those contingency plans had
4 become out of date?

5 A. Apparently so, based on what I said
6 here. Yes, they were out of date.

03:43:38 7 Q. Do you remember why they were out of
8 date?

9 A. Well, I do have specific memory of
10 names not being right, names of people not being
11 right, no longer there. Also, it's my
12 recollection, after having read this whole
13 E-mail, that there were other things that had
14 happened related to the ingredients list, the
15 industry ingredients list, that I was not aware
16 of, that would be useful.

03:44:02 17 Q. What had happened?

18 A. I didn't know anything about the
19 toxicology report; I didn't know anything about
20 the five scientists until just before this period
21 of time.

03:44:26 22 Q. Do you remember if you, in fact, did
23 draft the new statement?

24 A. No, I do not recall.

03:44:38 25 Q. This is March 3, which is Thursday.

2058458055

MANHATTAN REPORTING CORP.

1 Han

2 You don't recall -- do you recall the meeting?

3 A. No, sir, I don't. I can't recall
4 exactly when, but at some point in this period of
5 time we released the ingredients list, and so
6 there might not have been a need to write a
7 statement per se. But I don't know what the
8 timing of it all was any longer.

03:45:08 9 Q. When you say "we," you mean Philip
10 Morris released the ingredients list?

11 A. The industry did.

03:45:16 12 Q. And you don't mean that the industry
13 released what it had submitted to HHS, do you?

14 A. Yes, sir.

03:45:26 15 Q. The actual submission to HHS?

16 A. Yes, sir.

03:45:46 17 Q. Did you see what was released?

18 A. Yes, sir.

03:45:52 19 Q. You had never seen what had been
20 submitted, had you?

21 A. No, sir.

03:45:54 22 Q. Who told you they were the same?

23 A. Everybody told me it was the same.

03:46:20 24 Q. Let me suggest something, and you
25 tell me if this is what you recall or whether or

2058458056

1 Han

2 not it's just wrong. I want to suggest that the
3 industry created a new list, which contained
4 many, but not all, most, but not all, of the
5 ingredients that were on the list that was
6 submitted to HHS. I believe the list submitted
7 to HHS had something like 700 chemicals. The
8 list that was released had 599. And this new
9 list was created for the purpose of release, and
10 did not contain the same information, although it
11 had the 599 ingredients on it.

12 Does that in any way refresh your
13 recollection?

14 A. No, sir. I have a -- there's a
15 possibility, and I'm just guessing at this, that
16 that was a list of only the domestic
17 manufacturers, as opposed to foreign
18 manufacturers, but I don't know that for a fact.

03:47:30 19 Q. The statement by the five
20 toxicologists, that's the reference to the five
21 scientists on here?

22 A. Yes, sir.

23 MS. ROBBINS: It's five scientists.

24 A. Five scientists.

03:47:44 25 Q. Yes. But I believe, Mr. Han, you --

2058458057

1 Han

2 A. I probably did call them
3 toxicologists, but I don't know if they were
4 toxicologists. I believe they were.

03:47:52 5 Q. Do you know if that statement has
6 ever been released?

7 A. Certainly. We released the
8 statements of the five scientists at the same
9 time that we released the ingredients list.

10 (Han Exhibit 33 for
11 identification, inter-office correspondence dated
12 March 4, 1994, to Distribution, from Victor Han.)

49:16 13 Q. Mr. Han, before I ask you about
14 what's just been marked, Mr. Andrade, do you
15 recall what role he was playing at this point in
16 time -- we are in March, early March of 1994 --
17 in connection with the Day One story, the
18 anticipated Day One story, maybe even the FDA
19 letter?

20 MS. ROBBINS: I object to the form of
21 your question. I don't understand what you
22 mean.

23 A. My recollection of Tony at this point
24 in time was that he was dealing with the
25 ingredients list.

2058458058

1 Han

03:49:58 2 Q. The role he was playing in connection
3 with the anticipated Day One story was a role
4 that related to the ingredients, because he had
5 something to do with the ingredients list?

6 A. First off, I did not mean to say the
7 ingredients relating to the Day One story. I
8 just meant ingredients in general.

03:50:20 9 Q. Yes.

10 A. He was one of the people who had
11 knowledge of the list and had access to it, and
12 so anything having to do at this point with the
13 ingredients in our products or in the industry's
14 products would be something that he would be
15 dealing with.

03:50:40 16 Q. Was he involved in the February
17 24-February 25 meetings and telephone calls?

18 A. I do not believe so. No, I don't
19 think so.

03:51:00 20 Q. I thought you had said that one of
21 the reasons Mr. Parrish and Mr. Bring were
22 involved in the February 24-25 meetings was
23 because there was an issue that related to the
24 ingredients list. Do you remember that?

25 A. No, not ingredients list.

2058458059

Han

Ingredients in product.

Q. Just the ingredients, I see.

A. Anything having to do with the ingredients, because of certain legal issues, the direction I have and everybody else has is when it pops up, go find a lawyer.

Q. And Mr. Andrade's role was narrower than that? His role, or the reason he was called in was because of his role in connection with the ingredients list?

A. I don't know that that's the reason he was called over. I do know, though, when the ingredients list became an issue, that it was something that he was working with, working on.

Q. You have just been handed what's been marked Han 33.

A. Yes, sir.

Q. A one-page document dated March 4, 1994, from Victor Han to a distribution list. The subject is Day One-Part 2, production number 283592, that's PA 283592, and 2023991004.

I take it this is referring to the meeting that was referenced in the E-mail we just got through looking at? You can look at it.

2058458060

1 Han

2 It's page 8 of Exhibit 2.

3 Go to the second page. The E-mail
4 begins on page 8, goes to page 9. "I will be
5 trying to get the ninth floor conference room for
6 an 8:30 a.m. meeting on Tuesday with the same
7 cast of characters as last time." Do you see
8 that?

9 A. Yes, sir.

03:53:44 10 Q. Do you know what that reference is
11 to, "the same cast of characters as last time"?
12 Is "last time" the meetings that were taking
13 place on the 24th and 25th of February?

14 A. No, sir. I believe it has to do with
15 the meeting that took place immediately following
16 the first Day One broadcast.

03:54:00 17 Q. And that was the meeting that took
18 place the morning of March 1?

19 A. Yes, sir.

03:54:08 20 Q. Was Mr. Carchman then present,
21 physically?

22 A. I don't recall.

03:54:14 23 Q. Let me read the next sentence and see
24 if that --

25 A. I see that "Only change is Carchman

2058458061

1 Han

2 is unavailable and will be replaced by phone with
3 Charles and Daylor." I don't know if that means
4 he's unavailable -- if he was on the phone the
5 first meeting or not, or if he was in the room.

03:54:36 6 Q. But it's fair to say that this is
7 saying that Carchman participated in the March 1
8 meeting?

9 A. Apparently so.

03:54:48 10 Q. One way or another, either by phone
11 or in person?

12 A. It looks like that.

54:50 13 Q. This is two days later. Do you
14 remember if he would have been in town the whole
15 week?

16 A. No, sir.

03:54:58 17 Q. It says, "Buffy will get on line
18 too." That's Ms. Linehan?

19 A. Yes, sir.

03:55:04 20 Q. Do you recall if she participated in
21 the March 1 meeting?

22 A. No, I don't have a recollection.

03:55:22 23 Q. The next paragraph. I want to ask
24 you a careful question about the next paragraph.

25 A. Which --

2058458062

Han

03:55:28 Q. The one that begins "The only other thing." In the E-mail, I'm sorry.

A. "The only other thing is," yes.

03:55:34 Q. The next paragraph seems to be contemplating, you know, a serious event. What's the event that is being contemplated here?

A. Release of the ingredients list by Day One.

03:56:12 Q. Do you know if Day One had the ingredients list?

A. No, sir.

56:16 Q. And is that what you think the reference is? If they do, that's what would be the event you were worrying about? You didn't know one way or the other, but --

A. Correct, I did not know one way or another. I was looking at a worst case scenario as far as the subject of ingredients was concerned.

03:56:46 Q. Were there embarrassing things on the ingredients list, or were there things on the ingredients list that would cause embarrassment?

A. No, sir. Typical with anything that comes out of the tobacco industry, it is subject

2058458063

MANHATTAN REPORTING CORP.

1 Han

2 to innuendo and to taking things out of context,
3 subject to outright lies. Also, the ingredients
4 list, like any ingredients list for any consumer
5 goods company, the ingredients are chemical
6 names, technical names.

03:57:30 7 Q. Now let's go back to the Exhibit 33.
8 You have that?

9 A. Yes, sir.

03:57:38 10 Q. And I was asking you if this memo is
11 referring to the meeting that was referred to in
12 that E-mail.

13 A. It looks like that.

03:57:48 14 Q. It looks like it. And it again
15 refers to a general draft statement to be
16 created. Do you see that?

17 A. Yes, sir.

03:57:56 18 Q. It says, "We would like to hook up
19 Frank Daylor, Jim Charles and Buffy Linehan by
20 conference call." And the distribution, is the
21 distribution that is listed here the persons that
22 are to be either in the meeting or on the
23 conference call? Do I understand that?

24 A. I believe so.

03:58:22 25 Q. Who is Mr. Kenny, M. Kenny?

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1 Han

2 A. Michael Kenny is a fellow that works
3 at Philip Morris in investor relations.

03:58:30 4 Q. And why was he involved?

5 A. Both he and -- H. Millington, same
6 thing, investor relations. Because media stories
7 relating to the industry in general, and Philip
8 Morris in particular, can have affect on
9 shareholders' minds, and analysts' minds.

03:59:00 10 Q. I think I recall that in the March 1
11 FYI, that's the one that had as a first story a
12 Wall Street Journal story about tobacco stocks
13 take hit on FDA news --

14 A. Okay.

03:59:24 15 Q. Would Mr. Kenny and -- I forgot. Is
16 Millington a man or a woman?

17 A. Both men.

03:59:30 18 Q. Would Mr. Kenny and Mr. Millington
19 have been dealing with investors with respect to
20 the FDA letter, as well as with respect to
21 anything about the ingredients list?

22 A. Technically, yes. But understand
23 that their primary audience are analysts, the
24 analyst community itself.

59:52 25 Q. You received the regular distribution

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1 Han

2 of analyst reports about Philip Morris and
3 tobacco stocks, didn't you?

4 A. Yes, sir.

04:00:00 5 Q. Did you ever deal directly with the
6 analysts?

7 A. No, sir.

04:00:26 8 Q. Mr. Han, I would like to go back to
9 Exhibit 3, which is the collection of notes from
10 your notebook. And I would like to go to what's
11 marked at the bottom PA 426648.

12 A. Okay.

01:06 13 Q. It has at the top, in the left
14 margin, something that says March 7. Do you see
15 that?

16 A. Yes, sir.

04:01:12 17 Q. And the writing to the right is kind
18 of crossed out, or there's something crossed
19 through it.

20 A. It appears that way, yes.

04:01:32 21 Q. The language that's crossed out, I'm
22 going to try to read it. I think it says "Philip
23 Morris statement regarding Day One's reports on
24 nicotine and cigarette ingredients."

25 A. That's how I read it.

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1 Han

04:01:44 2 Q. Do you recall making these notes or
3 what they refer to?

4 A. No, sir, I don't.

04:02:02 5 Q. The first line that isn't crossed
6 out, I believe it says "Letter to ABC -
7 retraction." Do you see that?

8 A. Retraction; is that what that is?

9 MS. ROBBINS: You wrote it, Mr. Han,
10 so you have to say so.

04:02:16 11 Q. That's what I thought it said. But
12 what do you think it says?

13 A. I can't read it in my Xerox copy.

04:02:24 14 Q. Do you recall making a note about a
15 retraction --

16 A. No, sir.

04:02:24 17 Q. -- or any discussion about a
18 retraction?

19 A. No, sir, I don't recall.

20 MR. PAYTON: Barbara, do you have any
21 better version of this than I do?

22 MS. ROBBINS: I do not. I have the
23 same version -- actually, Denise, you gave me
24 that version. But, no, I don't have. I've never
25 seen a better version. I don't know whether the

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1 Han

2 original is more readable. I just don't know.

04:03:04 3 Q. The next line.

4 A. "Consumer - all ingredients," hyphen,
5 I guess, "PM are on a government approved list.
6 PM is taking steps to correct the misconceptions
7 created by the Day One broadcast." Wow, that's
8 pretty good.

9 MS. ROBBINS: Given the quality of
10 the xeroxing here, it is very good.

04:04:02 11 Q. Do you remember what that's referring
12 to?

13 A. No, sir.

04:04:08 14 Q. Do you see the reference in the
15 margin, right below that, that says Clausen?

16 A. Yes, sir.

04:04:14 17 Q. Do you know who that is?

18 A. Clausen Ely, an attorney at Covington
19 & Burling, I believe.

04:04:26 20 Q. And you see a paren in the middle of
21 the page on the same level, it's not clear if
22 they are connected, but there is a paren in the
23 middle of the page, it says, "make sure no
24 reporters."

25 A. Correct.

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Han

04:04:38 2 Q. Do you know what that was referring
3 to?

4 A. No, sir.

04:04:42 5 Q. Can you read the next writing on that
6 same level?

7 A. "Hunter (UK)."

04:04:48 8 Q. Does that mean anything?

9 A. Yes, a Hunter list. It's like a GRS
10 list, G-R-S list.

04:04:56 11 Q. Why don't you say that in English.
12 What is a GRS list, generally regarded as safe?

13 A. Safe, correct.

04:05:04 14 Q. By the HHS?

15 A. In the United States, it's, I
16 think --

04:05:08 17 Q. Or the FDA?

18 A. It would be FDA, HHS, or any number
19 of bodies.

04:05:16 20 Q. It's a list of ingredients that is
21 generally regarded as safe?

22 A. That's my understanding.

04:05:20 23 Q. And the Hunter list, your
24 understanding is, it is the analogous list --

25 A. UK list.

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1 Han

04:05:28 2 Q. -- in the UK.?

3 A. Correct.

04:05:30 4 Q. Can you read any other of that
5 writing?

6 A. This is after, on the right, "For use
7 in tobacco."

04:05:40 8 Q. And underneath Hunter, it says
9 "German"?

10 A. Does it?

04:05:44 11 Q. I'm asking.

12 A. Hunter, it says, in the parens it
13 says UK, and then under Hunter --

14 A. Yes, I see that. I can't make it
15 out. Germany would make sense, though, because
16 obviously they have a list, too, that's highly
17 regarded.

04:06:00 18 Q. Is any of this helping you recall
19 what you're taking notes about?

20 A. Well, clearly I'm gathering
21 information about the ingredients list and the
22 listings -- where these ingredients are listed in
23 the United States and in other countries.

04:06:24 24 Q. March 7 is a Monday, I believe. The
25 second Day One broadcast has not run, because it

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MANHATTAN REPORTING CORP.

1 Han

2 runs that evening. You still don't remember?

3 A. Well, I mean, if you put it in that
4 framework, I see where this might be in
5 preparation for that broadcast, and the
6 disclosure on that broadcast of the list or
7 elements of the list.

04:06:42 8 Q. Let's go to the next line.

9 A. "Facts/read statement, refer to
10 Clausen Ely at Covington & Burling."

04:06:52 11 Q. Next line?

12 A. "Letter for release, Tony."

07:00 13 Q. That would be Mr. Andrade?

14 A. Yes. And I don't know what the rest
15 of that is. To -- no.

04:07:08 16 Q. The next line. It says "No --"

17 A. "No B-roll satellite."

04:07:12 18 Q. And that would mean what?

19 A. There would be no B-roll or no
20 satellite media tour.

04:07:20 21 Q. What's a B-roll?

22 A. It is footage that is sent to news
23 stations, TV footage, that can be used by them as
24 visuals for a story that they would be reporting
25 on.

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Han

04:07:36 Q. And the writing on the same level but
in a box on the right-hand side, can you read
that?

A. "WIC approval of employee cover
note." That's William I. Campbell, Bill
Campbell.

04:07:52 Q. Was there discussion of an employee
cover note going on?

A. I do not know whether this refers to
something that's prospective or something that
has actually occurred, and I'm just reminding
myself to get it checked out.

04:08:04 Q. There is a line then drawn, and
underneath the line there are some more notes.
Do you know what the line is signifying?

A. No, sir.

04:08:10 Q. A different day?

A. I don't know.

04:08:12 Q. Can you read the first writing below
the line?

A. "FDA current and former employees
getting --" I can't read the rest of that.

MS. ROBBINS: Called?

A. Getting --

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Han

04:08:36 Q. Called?

A. It could be, but it doesn't -- FDA, something.

04:08:46 Q. Can I read it, and see if this is right? "Current and former employees getting called by reporters."

A. Oh, it could be. It could be. I mean, I don't know.

04:09:02 Q. Can you read the next line?

A. I could just read FDA, something, slash job, it looks like. It looks like a J, anyway.

04:09:16 Q. All the way to the right, there are two dashes --

A. "Prohibition." It could be nicotine -- I would not hazard to guess what the rest of that is.

04:09:36 Q. It looks like it says call, something.

A. Yes.

04:09:40 Q. Let's go to the next line, and it says "NYT."

A. "First to the New York Times, Ved Malik, circulate plan." Underneath that, Steve,

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Han

Chuck and Barry.

MR. ROBBINS: Barry or Murray?

THE WITNESS: Barry.

04:09:58 Q. Who is Ved Malik?

A. Ved Malik is a former scientist,
disgruntled scientist, of Philip Morris.

04:10:08 Q. Was he a former scientist then?

A. At this point in time?

04:10:10 Q. Yes.

A. Yes, sir.

04:10:16 Q. What's the "circulate plan" referring
to?

A. Ved Malik had threatened -- Ved Malik
was laid off as part of a general layoff in the
company, and he felt that he had been released
inappropriately, despite not very good
performance appraisals. He charged all kinds of
things, including racism, and threatened the
company that he was going to go to 60 Minutes, he
was going to go to the New York Times, he was
going to go to everybody and talk about how we
were hiding his science, which was, in fact, not
true at all.

10:54 Q. What was his science?

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1 Han

2 A. He was working on developing a
3 tobacco plant, I believe, that was free of
4 nicotine.

5 When this popped up, obviously, he
6 can say anything he wants to, whether it's true
7 or not. There's a tendency for people to believe
8 whatever negatives there is about the industry
9 and about Philip Morris.

10 So I never met the guy, but based on
11 discussions I did put together a very short plan
12 that would be used should he pop up, and at this
13 point in time he did.

04:11:34 14 Q. Sort of a media plan?

15 A. Well, yes, more or less, right.

04:11:44 16 Q. Do you recall if Mr. Malik -- whether
17 or not Mr. Malik's science also related to
18 creating a tobacco plant that would have more
19 nicotine?

20 A. My understanding is that the answer
21 is no.

04:11:58 22 Q. Steve is Steve Parrish?

23 A. Yes.

04:12:02 24 Q. And Chuck is Chuck Wall?

25 A. Yes.

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Han

04:12:04 Q. Who is Barry?

A. Barry is Barry Holt. He is vice president-corporate communications for Philip Morris, Inc. He is here because he received a call from the New York Times, I think, with a request for us to talk to the New York Times about Ved Malik.

04:12:22 Q. Do you remember if these are notes from a meeting?

A. No, I do not recall.

04:12:34 Q. The writing all the way to the right, which says March at the top.

A. March 23, Synar. I can't read what's after that.

04:12:42 Q. And you can read the very bottom?

A. Very bottom, "Tony - Wayne Pines."

04:12:50 Q. Is that Tony referring to Tony Andrade again?

A. I believe so, but I do not know for certain.

04:12:54 Q. Who is Wayne Pines?

A. Wayne Pines is a consultant who works for -- well, he's not our consultant. He's a consultant who works for a firm in Washington,

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1 Han

2 D.C., a communications firm in Washington, D.C.

04:13:46 3 Q. Turn the page.

4 MS. ROBBINS: That's easy to read.

04:13:56 5 Q. Mr. Han, can you look back and forth
6 at these two pages and tell if this is a
7 continuation of notes?

8 MS. ROBBINS: Are you talking about
9 the page that says "Redacted"?

04:14:12 10 Q. Go to the next page, the next page
11 with writing on it.

12 MS. ROBBINS: That's why I said it
13 was easy to read, John.

14 A. I can't tell if it's a continuation
15 or not.

04:15:08 16 Q. Do you see, the page you have right
17 there, which is the page that starts at the top
18 with a reference to Claire Purcell.

19 A. Yes.

04:15:22 20 Q. That's the page in front of you. In
21 the middle of the page, to the right, there's a
22 note that begins "Buffy." Do you see that? Can
23 you read that?

24 A. "How get ahead of secrecy issue -
25 invite committee staff to Richmond."

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Han

Q. Do you recall what the secrecy issue is, was?

A. It's what I referred to before. The impression is that the industry and Philip Morris at this time was cloaked in secrecy, especially the manufacturing process. The secrecy involved with the manufacturing process was legitimate because of the very competitive nature of the business, of the industry. But clearly the notion that -- our problem wasn't what we did, our problem was this view that we kept everything secret. And how do you try to break through that? Maybe the only way you can try to break through that is through disclosure. Buffy here is talking about inviting committee staff to Richmond. I believe that this is my taking notes of something that she said, but I can't be certain. Because, obviously, as time went on, she and I were both thinking along the same lines as far as the secrecy issue is concerned.

MR. PAYTON: I think we have to take a break.

THE VIDEO OPERATOR: It is 4:16.
This is the end of Tape Number 8 of the

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Han

deposition of Victor Han. 4:16, and we are off the record.

(A recess was taken.)

THE VIDEO OPERATOR: Today is June 27, 1995. This is the beginning of Tape Number 9 of the deposition of Victor Han. It is 4:28, and we are back on the record.

(Han Exhibit 34 for identification, August 17, 1993 fax transmission from Kathleen Linehan to a distribution list with attachments.)

BY MR. PAYTON:

04:28:54 Q. Mr. Han, you have just been handed a document that's been marked Han Exhibit 34, an August 17, 1993 transmission, fax transmission, from Kathleen Linehan to a distribution list. It attaches a memo from Ms. Linehan and two letters. It has production number PB 114315 through PB 114323 and 2023228560 through 8568.

Have you ever seen any of these documents before, Mr. Han?

A. I saw them for the first time this morning with counsel.

04:29:52 Q. It is your testimony that you don't

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1 Han
2 believe you have seen them prior to being shown
3 them by counsel?

4 A. I'm fairly -- I'm very certain that
5 I've never seen it before.

04:30:22 6 Q. Were you aware that there was this
7 correspondence between members of Congress and
8 HHS regarding some of the ingredients on the
9 ingredient list?

10 A. No, sir.

04:30:38 11 Q. Mr. Han, do you ever recall talking
12 to Ms. Linehan, at any time, about the
13 ingredients list?

14 A. No, sir.

04:31:12 15 Q. I want to go back to some previously
16 marked exhibits, Mr. Han. Exhibits 4, 5, 6 and
17 7. And they are -- they are not in the right
18 order, but they are the correspondence between
19 Philip Morris and HHS that begins in the fall of
20 1993, and the subject matter is whether or not
21 Philip Morris has added an ingredient to tobacco,
22 specifically the solubles which are extracted
23 from tobacco and then reintroduced into the
24 plant. I am reading from Exhibit 7.

25 Do you see that series of

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1 Han

2 correspondence? I think I asked you about this
3 in March.

4 MS. ROBBINS: That's correct.

04:32:04 5 Q. Do you see those?

6 A. Yes.

04:32:06 7 Q. And do you remember me asking you
8 about these in March?

9 A. Not really, but...

04:32:14 10 Q. Each of these, or the first three of
11 these, that's Exhibits 5, 6 and 7, it's a January
12 '94 letter, a December '93 letter, and an
13 October '93 letter, have fax lines at the top.
14 Do you see the fax lines? That have a fax line
15 and a date of February 24, 1994. Do you see
16 that?

17 A. I see February, yes. On all of
18 them?

04:32:42 19 Q. And that's on Exhibit 4, 5 and 6.

20 A. February 24, 1994.

21 MS. ROBBINS: C&B, Washington, D.C.

22 A. Yes, 4, 5 and 6, I see those.

04:33:04 23 Q. And I believe the fax is actually a
24 Covington & Burling fax number.

25 A. I see C&B there, so...

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1 Han

33:10 2 Q. Does this refresh your recollection
3 that these three letters, at least, were before
4 the group that was considering issues related to
5 Day One on February 24 and 25, 1994?

6 A. Does it refresh my memory as to
7 what?

04:33:28 8 Q. Whether or not these letters were
9 before the group of Philip Morris persons that
10 were considering the Day One inquiries on
11 February 24 and February 25.

12 A. I don't know.

04:33:48 13 Q. Do you recall discussions during the
14 meetings and conversations and telephone calls
15 that occurred on February 24 and February 25, and
16 I'm asking now a yes or no question, do you
17 recall conversations, discussions, that related
18 to these inquiries from HHS to Philip Morris
19 regarding whether or not Philip Morris was adding
20 an ingredient in the course of manufacturing its
21 cigarettes?

22 A. I don't have a recollection.

04:34:30 23 Q. Do you recall at any time, with the
24 exception of your deposition and preparation for
25 your deposition, do you recall having a

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MANHATTAN REPORTING CORP.

1 Han

2 discussion with anyone at Philip Morris about
3 these inquiries by HHS to Philip Morris about
4 adding ingredients?

5 A. No, sir, I do not have any
6 recollection of that sort.

04:35:32 7 Q. Mr. Han, could we go back to Exhibit
8 3, which is your notes, again. And we were on
9 the page that has at the top left "Claire
10 Purcell." It is PA 426650.

11 A. Yes.

04:36:04 12 Q. We were talking about the note that
13 begins "Buffy." And you were explaining that you
14 and Buffy at some point, I think, sort of agreed
15 that in order to deal with the secrecy issue,
16 there ought to be some sort of disclosure; is
17 that correct?

18 A. I don't know that we agreed, I don't
19 know that we ever discussed it, but I believe we
20 were thinking along the same lines.

04:36:32 21 Q. Thinking along the same lines, okay.
22 Did you mention the idea that you had
23 of disclosure to other persons?

24 A. At some point, certainly.

36:52 25 Q. What came up? What happened?

2058458083

1 Han

2 A. We did it.

04:37:00 3 Q. Do you know what time frame it was?
4 I am trying to figure out when these notes would
5 have happened.

6 A. No, I don't know the exact time
7 frame. No, I don't know.

04:37:16 8 Q. It says Claire Purcell in the upper
9 left-hand corner.

10 A. Right.

04:37:22 11 Q. And the next thing says "Statement,
12 Clausen Ely."

13 A. Yes.

04:37:26 14 Q. And that is Clausen Ely at Covington
15 & Burling?

16 A. Yes, sir.

04:37:30 17 Q. Do you know what that's referring,
18 what the statement to Clausen Ely is referring
19 to?

20 A. No, sir.

04:37:36 21 Q. You see the next writing, I believe
22 it says -- what does that say?

23 A. "Monday PM, statement package."

04:37:46 24 Q. Do you know what that means?

25 A. No, sir.

2058458084

Han

1
2 Q. And the next little box, or next
3 little series of dates, "3/25 FDA."

4 A. "Synar Committee." I don't know what
5 that means. "3/21 IAQ."

04:38:04 6 Q. What's IAQ?

7 A. Indoor air quality.

04:38:08 8 Q. Indoor air quality? Is that what
9 that really means?

10 A. Yes, sir.

04:38:12 11 Q. Why is that here?

12 A. I can guess that it might have
13 something to do -- no, it's too early for that.
14 OSHA looking at IAQ. Environmental tobacco
15 smoke.

04:38:28 16 Q. Okay.

17 A. The other one --

04:38:32 18 Q. 4/1?

19 A. Yes. I don't know what the next
20 word -- it looks like "approximately, Kennedy."

21 MS. ROBBINS: I thought it was
22 LaGuardia and Kennedy. I've been so busy looking
23 at flight schedules.

24 A. This obviously is making reference,
25 in my mind, anyway, to Ted Kennedy. Senator

2058458085

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1 Han

2 Kennedy, and perhaps the investigation by the GAO
3 that he called for.

04:39:02 4 Q. You see the next line on the left it
5 says "Campbell letter from last week."

6 A. Yes.

04:39:08 7 Q. I want to suggest that the Campbell
8 letter from last week that's being referred to is
9 the March 3 Campbell letter.

10 A. I do not know.

04:39:34 11 Q. The line on the right says "Waxman
12 3/21 IAQ"?

13 A. Right.

04:39:42 14 Q. Was there a hearing on what you
15 called secondhand smoke?

16 A. I do not know. I don't know.

04:39:58 17 Q. "FDA 3/25 Synar," is that what that
18 says?

19 A. Yes.

04:40:02 20 Q. "Kennedy after April 1, GAO"
21 something.

22 A. "Study." "GAO study will be basis
23 for April meeting."

04:40:08 24 Q. What was GAO study?

25 A. Again, that was the investigation --

2058458086

1 Han

2 I believe it was the investigation that Kennedy
3 called for, the investigation by the GAO of the
4 issues raised in Day One.

04:40:26 5 Q. Did Kennedy call for this
6 investigation in response to the FDA letter, do
7 you remember?

8 A. I don't remember. My recollection,
9 though, is that he called for this investigation
10 as a result of the Day One program.

04:41:16 11 Q. The next line on the left begins,
12 "DA." Do you see that?

13 A. I think that's actually FDA.

04:41:22 14 Q. Yes, I see. "FDA Andrade letter."

15 A. "Andrade letter," yes. "To Kessler.
16 What he relied on to make claims in letter."

04:41:32 17 Q. Do you know what that's referring to?

18 A. No, sir.

04:41:40 19 Q. Do you know of any letter from Philip
20 Morris to Mr. Kessler, Dr. Kessler, about what
21 he, Mr. Kessler, relied on in making claims?

22 A. Do I know of any letter that was sent
23 to him on that basis?

04:41:54 24 Q. Yes.

25 A. I'm not aware of one. That doesn't

2058458087

1 Han

2 mean there wasn't one. I don't know of it.

04:42:02 3 Q. Do you know if that could be
4 referring to the letter that Congressman Bliley
5 sent to Mr. Kessler?

6 A. I don't know.

04:42:16 7 Q. Did you ever discuss this matter with
8 Mr. Andrade?

9 A. Which matter?

04:42:24 10 Q. Whether or not -- I mean, what this
11 letter, that apparently Andrade letter, regarding
12 what Kessler relied on in making the claims in
13 his letter.

14 A. I have no recollection, one way or
15 the other.

04:42:48 16 Q. Can you read what's crossed out?

17 A. Well, I can read the last two words.
18 It's "task force." I don't know what the first
19 word is. It might be Wither.

04:43:04 20 Q. And under that it says 10-K?

21 A. Yes, sir.

04:43:08 22 Q. Do you know what that's referring to?

23 A. Philip Morris' 10-K.

04:43:12 24 Q. But you don't know what this
25 reference means?

2058458088

1 Han

2 A. No.

04:43:18 3 Q. Let's go to the next writing. Can
4 you read that?

5 A. "Ads, advertorials, press conference
6 (lawsuit announce ingredients) ingredients
7 disclosure. Gentlemen's agreement/news
8 organization."

04:43:28 9 Q. What's an advertorial?

10 A. An advertorial is -- essentially it's
11 an ad, a copy ad, that looks more like a -- it
12 looks like the publication that it's in, even
13 though it's marked advertisement at the top.
14 It's purchased space.

04:44:04 15 Q. Do you know what this list is
16 referring to?

17 A. Excuse me?

04:44:08 18 Q. Advertorials, press conference,
19 ingredients list, gentlemen's agreement, do you
20 know what this is referring to?

21 A. I can't put it all together, no.

04:44:28 22 Q. Press conference, do you know what
23 that's referring to?

24 A. It looks like options of some sort.
25 But I don't know -- well, it looks as though this

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MANHATTAN REPORTING CORP.

1 Han

2 is all part of a conversation about how to get
3 the message out, in different ways. What the
4 message is, I don't know, but just in some
5 fashion trying to get something out there.

6 The lower copy seems to be about
7 trying to put together a TV program.

04:45:18 8 Q. You don't have a recollection of
9 this?

10 A. Nothing more than what I'm saying
11 right now.

04:45:26 12 Q. The reference to lawsuit, do you see
13 that?

14 A. Yes, sir.

04:45:28 15 Q. After press conference?

16 A. Yes.

04:45:32 17 Q. Do you recall if filing a lawsuit was
18 being actively considered?

19 MS. ROBBINS: To the extent that
20 there are discussions about -- we don't have a
21 time frame -- discussions about filing a lawsuit
22 with counsel, you should not testify to any such
23 discussions.

24 MR. PAYTON: I'm not asking about
25 conversations with counsel.

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1 Han

04:45:54 2 Q. Do you know whether the reference in
3 your notes on this page to lawsuit, after press
4 conference, is referring to consideration of
5 filing a lawsuit, Philip Morris considering
6 filing a lawsuit?

7 A. Against whom?

04:46:04 8 Q. I don't know.

9 A. Well, I don't, either.

04:46:08 10 Q. You don't remember this reference to
11 lawsuit?

12 A. No, sir.

46:18 13 Q. What is your first recollection of
14 Philip Morris having decided to file this
15 lawsuit?

16 MS. ROBBINS: Again, without
17 revealing any conversations with counsel about
18 the possibility of a lawsuit.

19 MR. PAYTON: That's right.

20 A. The day where a meeting was held with
21 a lot of people and Mike Miles, where it was put
22 on the table. But no decision was made that day.

04:47:22 23 Q. And the reference to gentlemen's
24 agreement, what is that?

25 A. Well, I know what it is, in my
2058458091

1 Han

45:54 2 Q. Do you know whether the reference in
3 your notes on this page to lawsuit, after press
4 conference, is referring to consideration of
5 filing a lawsuit, Philip Morris considering
6 filing a lawsuit?

7 A. Against whom?

04:46:04 8 Q. I don't know.

9 A. Well, I don't, either.

04:46:08 10 Q. You don't remember this reference to
11 lawsuit?

12 A. No, sir.

04:46:18 13 Q. What is your first recollection of
14 Philip Morris having decided to file this
15 lawsuit?

16 MS. ROBBINS: Again, without
17 revealing any conversations with counsel about
18 the possibility of a lawsuit.

19 MR. PAYTON: That's right.

20 A. The day where a meeting was held with
21 a lot of people and Mike Miles, where it was put
22 on the table. But no decision was made that day.

04:47:22 23 Q. And the reference to gentlemen's
24 agreement, what is that?

25 A. Well, I know what it is, in my

2058458092

MANHATTAN REPORTING CORP.

understanding of the term. I'm not certain that it means the same thing in the context on this page.

Q. What does the term mean when --

A. Gentlemen's agreement is the term I believe, to describe an alleged agreement between part of the major domestic manufacturers to conduct scientific research of some sort. I don't know when this terminology was first developed. I became acquainted with it for the first time during the Cippolone trial in 1988.

Q. Do you understand why it says men's agreement/news organizations?

A. No, sir.

Q. Was there a gentlemen's agreement?

A. I don't know.

Q. I mean, as you just explained what men's agreement means, which is --

A. My understanding of the term. Was in fact, a gentlemen's agreement amongst industry?

Q. Yes.

A. I do not know.

Q. Can you read the next line in a box?

MANHATTAN REPORTING CORP.

1 Han

2 It says how --

3 A. "How broadcast to what audience."

04:48:44 4 Q. This is what led you to believe this
5 was notes about some --

6 A. I do recall at one point during this
7 whole period somebody made a suggestion that
8 maybe we should consider getting -- in order to
9 get our own message out, our position on these
10 things, on these various issues that were coming
11 at us, was why not produce our own television
12 program, buy the time, and broadcast it.

04:49:14 13 Q. And it says, underneath that, it
14 says, "Defend our reputation, not nicotine."

15 A. Yes.

04:49:20 16 Q. Do you know what that's referring to?

17 A. It's similar to the secrecy issue.
18 It's not exactly the same. But that obviously we
19 talked about the reputation, what has really
20 significantly changed in 1994, by this time, I
21 believe, this is early spring, is that the
22 product was not nearly -- while the product was
23 under attack, the attack was really focusing on
24 the character of the manufacturers, and it has
25 more to do with that than -- I mean, that's

2058458094

Han

probably what it has to do with.

04:50:06 Q. Mr. Han, during this time frame, this
is March --

A. At least it's before March 21, right.

04:50:18 Q. Why do you say that?

A. I'm assuming that the dates I've
written on the right-hand top corner.

04:50:30 Q. Haven't happened yet?

A. Are prospective, right.

04:50:36 Q. In this time frame, which is in March
but before March 21, do you recall making a trip
to Richmond?

A. I don't have a recollection. I could
very well have.

04:50:56 Q. Do you recall visiting the
reconstituted tobacco facilities?

A. At some point, yes, sir.

04:51:02 Q. Is that in the spring?

A. Yes, sir, I think so.

04:51:08 Q. It's before the filing of the
lawsuit?

A. Yes, sir.

04:51:20 Q. The lawsuit is filed on March 24; is
that right?

2058458095

1 Han

2 MS. ROBBINS: Yes. The original
3 amended -- the original motion.

4 MR. PAYTON: The motion for judgment
5 was filed on March 24.

6 MS. ROBBINS: Yes.

04:51:34 7 Q. And you believe that you visited
8 Richmond and the reconstituted tobacco facilities
9 before that?

10 A. Yes, sir.

04:51:42 11 Q. I'm trying to just place that in
12 time. A week before, two weeks before?

13 A. I honestly do not know. I can't
14 recall.

04:51:56 15 Q. Do you recall what happened on the
16 trip to Richmond? What was the purpose of the
17 trip and what happened?

18 A. There were a number of us who were
19 observing -- was it just the recon process or was
20 it everything? Certainly the reconstitution
21 process. I don't recall how much -- I think it
22 was a soup-to-nuts observation of the
23 manufacturing process.

04:52:46 24 Q. Do you remember visiting any tobacco
25 blending facility in Richmond, or did you start

2058458096

1 Han

2 actually after that?

3 A. I can't recall -- I don't remember
4 the order. Blending? Well, the process itself
5 includes blending. I mean, at one point you
6 have, for lack of a better term, say conveyor
7 belts. Each conveyor belt has a different kind
8 of tobacco. At one point or another they all get
9 dumped onto one conveyor belt. So, I mean,
10 that's the blending.

04:53:28 11 Q. You say soup-to-nuts. Is that the
12 first point in the process that you recall
13 seeing?

14 A. I do not recall what I saw first.

04:53:36 15 Q. Do you recall if you visited both the
16 RL and the BL plants?

17 A. I don't think there is a BL plant in
18 Richmond. I don't recall. I know I saw the RL
19 plant.

04:53:56 20 Q. Do you recall if you visited or
21 toured the flavor center? Do you know what the
22 flavor center is?

23 A. Yes. At that time I don't recall
24 whether I did or did not.

54:14 25 Q. Do you recall if you visited the

2058458097

1 Han

2 semiworks plant?

3 A. The what?

04:54:20 4 Q. Semiworks plant.

5 A. I don't know what that is.

04:54:24 6 Q. Do you recall if you visited any R&D
7 facilities?

8 A. Yes, we did.

04:54:26 9 Q. Do you recall which ones?

10 A. Well, the one in Richmond. My
11 recollection is, though, that at the time we were
12 visiting that facility -- I might be getting my
13 visits mixed up. I know at one point I was
14 called away so I missed that part. I missed a
15 couple of parts because I was called away. But I
16 don't know whether I'm mixing my trips.

17 I have visited the R&D facility, of
18 that much I'm certain. I just don't know exactly
19 when.

04:55:24 20 Q. Would you take a look at Exhibit 3.
21 These are your notes. Just go to the end, and
22 there are a few -- I'm sorry, Mr. Han. Instead
23 of looking there, could you look to Exhibit 9 as
24 well. And while you are looking, let me tell you
25 what I want to ask you. I want to know if you

2058458098

1 Han

2 recognize any of these materials, which I don't
3 believe were necessarily collected in this
4 order. They're just collected here. Whether
5 these materials are materials that you recognize
6 as having received during your March 1994 visit
7 to Richmond.

8 A. I can't be certain. I believe that
9 the flow chart on the BL plant flow diagram is
10 something that I received on that trip to
11 Richmond. Oh, it's the same thing twice.

04:56:50 12 Q. Yes, the same thing twice.

13 A. The key patents regarding
14 reconstituted tobacco, this document is not
15 familiar to me.

04:57:00 16 Q. You don't remember this document at
17 all?

18 A. No, sir.

04:57:08 19 Q. The next document is, I can just
20 represent to you, from the Code of Federal
21 Regulations, relating to SDA 4, denatured
22 alcohol.

23 A. It is?

04:57:22 24 Q. Right. These are all from your
25 files.

2058458099

Han

A. Oh, I have no doubt.

04:57:28 Q. You don't recognize that at all, or
when you would have received it?

A. No.

04:57:34 Q. And the next document you are looking
at now is a chart that says "Sales Weighted
Industry Nicotine."

A. Right. I'm familiar with this
chart. I do not know at what point I received
it, but I'm familiar with it.

04:57:50 Q. You don't know if it was on this trip
or not?

A. I don't know.

04:57:56 Q. The next document is --

A. Same thing.

04:57:58 Q. -- a chart about average nicotine by
year, Philip Morris U.S.A.

A. Right.

04:58:02 Q. You don't remember when you got that,
either?

A. No. But I am familiar with that
chart.

04:58:08 Q. The next document is formula for
article made with specially denatured alcohol or

2058458100

1 Han

2 rum.

3 A. Rum? No, I don't recognize this.

04:58:40 4 Q. You didn't know that? I guess when
5 you said a flavor package, you didn't know what
6 you were referring to, did you?

7 Do you recall receiving materials on
8 the trip to Richmond?

9 A. Yes, I do.

04:59:04 10 Q. Could you go back to your notebook.
11 Towards the end of your notebook, there are a few
12 additional pages I want to ask you about, the
13 same questions. I think four pages from the end,
14 five pages from the end, there is a document that
15 is PA 426672, and it is a chart, a flow chart,
16 that says "Oriental Tobacco Processing
17 Overview." Do you see that?

18 A. I see it, yes, sir.

04:59:30 19 Q. Do you recall if you received this on
20 the trip to Richmond?

21 A. My belief is that, yes, I did receive
22 this on the trip to Richmond.

04:59:36 23 Q. And if you turn the page, there is a
24 document, which is PA 426674, which says --

25 A. 74?

2058458101

1 Han

04:59:46 2 Q. Yes, it's the next page, I believe.
3 That's it. And it says "LPF Stemming Process
4 Flow." Do you see that?

5 A. Yes.

04:59:56 6 Q. Do you recall if this is a document
7 you received on the trip to Richmond?

8 A. I'm virtually certain that I did.

05:00:04 9 Q. Do you recall visiting the operation
10 where the stemming process flow occurred?

11 A. I don't have a clear recollection of
12 that.

00:22 13 Q. Do you recall any other documents you
14 would have received on the trip to Richmond that
15 aren't here?

16 A. Not with any certainty. There might
17 have been other flow charts describing other
18 parts of the manufacturing process, but I don't
19 have a specific recollection of it. My guess is
20 that I did get something else at that time.
21 Whether or not I kept it, I don't know.

05:01:00 22 Q. You saw the document that related to
23 the BL process. It was in Exhibit 9.

24 A. Right.

01:08 25 Q. Did that refresh your recollection as

2058458102

1 Han

2 to whether or not there is a BL facility in
3 Richmond, or whether or not you visited the BL
4 facility in Richmond? I can represent to you,
5 Mr. Han, there is a BL facility in Richmond.

6 A. Okay.

05:01:24 7 Q. It's where the BL facility is. It's
8 the only BL facility.

9 A. Oh, it is?

05:01:26 10 Q. Yes.

11 A. Okay. Well, there you go. Does it
12 refresh my memory regarding that?

01:32 13 Q. Yes.

14 A. No, it doesn't. I'm afraid not.

05:01:36 15 Q. Do you remember if you received any
16 materials on the trip to Richmond in March of
17 1994 that related to the RL facility?

18 A. I believe I would have gotten a
19 similar flow chart.

05:01:50 20 Q. But you don't -- you have no specific
21 recollection, but --

22 A. My belief is that I would have
23 received a flow chart, yes. But I don't have it
24 anymore, and I don't remember.

25 MS. ROBBINS: John, the BL plant flow

2058458103

1 Han

2 diagram attached to the notebook is the same as
3 the one in Exhibit 9.

4 MR. PAYTON: Yes, it is.

5 (Han Exhibit 35 for
6 identification, memo from Victor Han to
7 Distribution, dated March 7, 1994, entitled "Day
8 One-Part 2.")

05:02:50 9 Q. Mr. Han, you have been handed a
10 document that is a memo from you to a
11 distribution list, dated March 7, 1994, entitled
12 "Day One-Part 2," and it says "Attached is a
13 copy of the transcript of this evening's Day One
14 followup story on the nicotine issue." Let me
15 just identify it. It has production number PA
16 648157 through PA 648164, or 2022999319 through
17 9326.

18 Do you recall sending this memo?

19 A. No, sir.

05:04:14 20 Q. Do you recall how you had a copy of
21 the transcript for this evening's Day One?

22 A. No, sir.

05:04:32 23 Q. This is the Day One that was going to
24 be on ingredients in cigarettes, that was to run
25 on March 7.

2058458104

1 Han

2 A. Okay.

05:04:42 3 Q. And this memo, I take it, would have
4 run before the broadcast? You would have
5 distributed the memo before the evening
6 broadcast? Or do you remember?

7 A. The broadcast -- the second broadcast
8 was March 7; right?

05:04:58 9 Q. Yes.

10 A. It looks like that. I don't have a
11 recollection of this.

12 MS. ROBBINS: And there is a fax line
13 on the actual transcript.

14 MR. PAYTON: Yes, I know. I'm coming
15 to that.

05:05:22 16 Q. You don't remember how you came to
17 get the transcript at all?

18 A. No.

05:05:30 19 Q. The attached transcript, if you look
20 at it, has a fax line which I can't read on the
21 first page, but I believe I can read it on the
22 second page, and it says, it looks like an
23 abbreviation for Charlotte Observer Business, do
24 you see that, telephone number, and then a date,
25 and it says March 9?

2058458105

1 Han

2 A. Where are you? You see Charlotte
3 Observer?

4 MS. ROBBINS: This page.

5 A. Oh, there it is, Charlotte Observer.

05:06:02 6 Q. Do you see at the top? Charlotte
7 Observer Business is how I read that, a telephone
8 number, and then the next date says March 09
9 '94. Do you see that?

10 A. Yes, sir.

05:06:12 11 Q. I take it from the fax line, and the
12 date on the fax line, that that isn't the
13 transcript that was attached to your memo,
14 because your memo is March 7.

15 A. Right.

05:06:24 16 Q. And this is a March 9 -- go back to
17 the cover page.

18 A. Oh, I see what you're saying. I do
19 not have an explanation for that. Now, I
20 cannot -- it is probable -- I don't know why it
21 says March 9. It is probable the Charlotte
22 Observer sent this to us, for a lot of different
23 reasons. I do remember the reporter -- a
24 reporter at the Charlotte Observer telling either
25 me or a member of the staff that because of the

2058458106

story they wrote following the ABC broadcast of Day One, a story that they wrote regarding reconstituted tobacco, that -- and perhaps it was after this -- certainly it was after this. Obviously it was. The reporter told me that clearly ABC is not pleased with me or my story, because, this is post-March 7, they are no longer sending me news releases and such.

07:40

07:48

08:24

A. No, sir. Why is there two different
ons?

A. I have no idea.

05:08:24

Q. If you look at it, it's not a transcript, because the broadcast hasn't occurred yet, has it? Would I be accurate if I said this

MANHATTAN REPORTING CORP.

1 Han

2 is more like a script?

3 A. Yes. I would say so. More like a
4 broadcast script.

05:08:48 5 Q. A broadcast script. And I believe
6 the first page, which says "For Immediate
7 Release," sort of like a press release, very
8 difficult to read, but I believe it indicates
9 that changes can occur up to airtime, I think it
10 says that, and --

11 MS. ROBBINS: "Please be advised that
12 this transcript is subject to changes up until
13 airtime."

14 A. Subject to changes up until airtime.

15 MS. ROBBINS: Gary Morgenstein.

16 A. He's hyping the show.

05:09:28 17 Q. That's what this is?

18 A. Yes. I mean, that's what it appears
19 to be.

20 Q. That's what it appears to be?

21 A. That he was hyping it with the
22 Charlotte Observer.

05:09:36 23 Q. Did Philip Morris receive what
24 appears to be scripts of shows, a TV script?

25 A. Not that I can recall.

2058458108

Han

05:09:46 2 Q. You don't remember anything else
3 about this, the memo or the attached --

4 A. No, but I do recall -- you see, and I
5 don't remember whether it's this particular
6 document. I do recall the Charlotte Observer,
7 somewhere along this thing, a conversation,
8 "Would you like me to send it to you?" I mean,
9 I seem to remember hearing that. But I don't
10 recall if it was about this, although I suspect
11 it was. But that's what I remember. That's all
12 that I remember.

10:20 13 Q. Would this contact have been noted in
14 a media call report?

15 A. I don't know. It all depends on
16 whether or not I let anybody know that I had
17 spoken to the reporter, or if it was me who spoke
18 to the reporter at all.

05:10:36 19 Q. You certainly distributed this. You
20 didn't distribute it inside your office, though,
21 I guess.

22 A. Well, it's inside the building, it's
23 outside the building.

05:10:48 24 Q. No, I just meant within your
25 department, I'm sorry.

2058458109

1 Han

2 A. It doesn't appear to.

05:11:00 3 Q. You don't remember if you told
4 someone inside your department that you had
5 received this?

6 A. No, I don't recall.

7 (Han Exhibit 36 for
8 identification, two-page document.)

05:12:44 9 Q. Mr. Han, you have been handed a
10 two-page document.

11 A. I hope it's only a draft.

05:12:54 12 Q. Why is that? It's from your files.

13 A. Because it says Mary 7 for the
14 dateline.

15 MS. ROBBINS: Oh, what's a typo?

16 A. There is no contact on that. So it
17 must be an early draft of something.

05:13:14 18 Q. It is identified as PA 426818 through
19 PA 426819, and it goes 2023991001 through 1002.

20 A. Wow, a lot of typos.

05:13:40 21 Q. This is, I take it from your
22 comments, this is a draft of a statement?

23 A. I hope so.

05:13:44 24 Q. Were you responsible for drafting
25 this? Do you take responsibility for those

2058458110

Han

typos?

A. Unfortunately, I think so.

05:14:20 Q. Do you remember what this is?

A. I don't remember what this is, but it looks like -- the second Day One program was March 7; right?

05:14:34 Q. It was.

A. So it looks -- March 7?

05:14:40 Q. Monday, March 7.

A. Well, it looks like the intention for this was to go out in advance of the program.

15:08 Q. This was drafted before the program ran?

A. It looks like. The letter that was delivered to Day One prior to tonight's program -- no, not necessarily. Well --

05:15:18 Q. Prior to tonight's program.

A. Included the following.

05:15:22 Q. That pretty much sounds like it was to go out before the program, doesn't it?

A. Correct. I don't know that it ever did.

05:15:44 Q. The first full paragraph, "Both this week and last," do you see that?

2058458111

Han

A. Yes.

05:15:48 Q. "Philip Morris and other tobacco industry members provided Day One with the facts well in advance of stories the program intended to air about the contents of cigarettes."

Do you know what that sentence was referring to with regard to the facts provided well in advance of the February 28 story?

A. The February 25 statement.

05:17:06 Q. Mr. Han, let me show you the statement I believe went out, so that we can get away from the typos.

(Han Exhibit 37 for identification, memo dated March 8, 1994 from William Campbell to All Philip Morris New York Office/Ryebrook Employees.)

05:17:40 Q. Mr. Han, you have now been handed what's been marked Han Exhibit 37, a March 8, 1994 memo from William Campbell to All Philip Morris New York Office/Ryebrook Employees, attaching a number of documents. And it is production number PA 426574 through PA 426582, or 2023916182 through 6190.

Did you review this document in
2058458112

1 Han

2 preparation for your deposition?

3 A. I don't recall.

05:18:22 4 Q. The memo has attached to it a number
5 of things, and the first attachment appears to be
6 the final version of the statement that was in
7 draft form in Exhibit 36. Do you see that?

8 A. Yes, sir.

05:18:42 9 Q. And it's dated March 7. Do you see
10 that?

11 A. Yes, sir.

05:18:46 12 Q. Do you now recall that, in fact, the
13 statement went out on March 7?

14 A. I do not have that independent
15 recollection, no, sir. But judging by what the
16 memo says, I believe it did.

05:19:30 17 Q. You see the second attachment is a
18 letter from Clausen Ely to Richard Wald, senior
19 vice president at ABC News, dated March 7, 1994.
20 Do you see that?

21 A. Yes, sir.

05:19:56 22 Q. Have you seen this before?

23 A. I believe so.

05:20:00 24 Q. Is this the Clausen statement, now
25 that you see it, that is being referred to in

2058458113

Han

your notes?

A. Oh, I don't know. You mean in my notebook?

Q. Yes.

A. I do not know.

Q. Why don't we go back and look at Exhibit 2. I am trying to fix the notes in time. Here we have a March 7 letter.

MS. ROBBINS: The notebook is what exhibit?

MR. PAYTON: It's Exhibit 3. And the page we were at --

MS. ROBBINS: Can somebody just read me the PA number?

MR. PAYTON: Yes. The PA number is PA 426648. It has at the top March 7.

A. I must have released this thing out for approval that night. That's what we had to have done.

MS. ROBBINS: You are talking about the statement?

THE WITNESS: Yes.

Q. You believe that the statement was released the evening of March 7?

2058458114

MANHATTAN REPORTING CORP.

Han

A. That's my guess.

05:21:28 Q. Do you see the page I was referring
you to in your notes that has in the left-hand
top March 7?

A. "Statement to Clausen Ely," that's
what you're referring to?

05:21:38 Q. Yes.

A. Yes, I see that.

05:21:50 Q. Does that help you remember whether
or not the statement, the letter that is attached
to the statement, is what is being referred to in
these notes dated March 7?

A. It appears that is the case. I do
not have a recollection that that is the case,
but it appears to be the case.

05:22:14 Q. And you are referring to a page in
your notes that has at the top left Claire
Purcell?

A. Yes, sir.

05:22:22 Q. And it has "Statement to Clausen
Ely"?

A. Yes, sir.

MR. PAYTON: Turn the page, and then
turn the page, and see in the top left it says --

2058458115

1 Han

2 MS. ROBBINS: Got you.

3 Can we go off the record for just a
4 minute to talk about timing?

5 THE VIDEO OPERATOR: It is 5:22, and
6 we are off the record.

7 (Discussion off the record.)

8 THE VIDEO OPERATOR: It is 5:26, and
9 we are back on the record.

05:26:20 10 Q. Mr. Han, could you go back to Exhibit
11 2, which is the collection of E-mails, and go to
12 page 8. The E-mail right in the center of the
13 page, which is dated Monday, March 7, 1994, and
14 it's from Shirley Arnott to Brendan McCormick, do
15 you see that?

16 A. Yes, sir.

05:27:00 17 Q. And it has an item listed as "Files,"
18 and it says "Media statement for Vic." Do you
19 see that?

20 A. Yes.

05:27:08 21 Q. And then the text is, "Brendan,
22 please give to Chuck Wall for Vic. Thanks,
23 Shirley." Do you see that?

24 A. Yes.

27:22 25 Q. Does this refresh your recollection

2058458116

1 Han

2 that on March 7 you were in Richmond, that you
3 needed to get the media statement that you had
4 drafted up to Chuck Wall, and that you asked
5 Shirley Arnott to E-mail it up and attach it as a
6 file, but that on March 7 you had gone to
7 Richmond?


8 A. It's quite possible. As far as
9 jogging the memory is concerned, I don't have
10 a -- I don't remember.

05:27:58 11 Q. If you look at this, does it jog your
12 memory that the media statement for Vic on there
13 is the March 7 press release that we just looked at?

14 A. My guess is that is the case but,
15 again, I do not know that for certain.

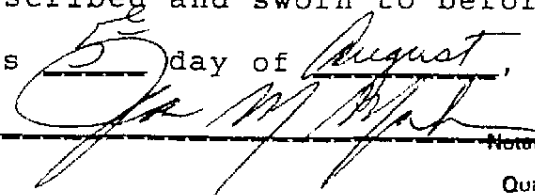
16 THE VIDEO OPERATOR: It is 5:28.
17 This is the end of Tape Number 9, and this
18 concludes today's taping of the deposition of
19 Victor Han. It is 5:28. We are off the record.

20 (Time noted: 5:28)

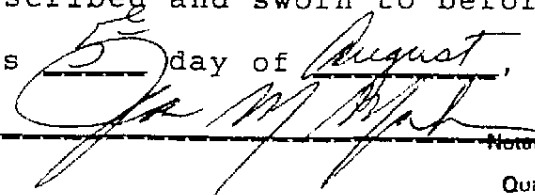
21 

22 VICTOR HAN

23 Subscribed and sworn to before me

24 this  day of August, 1996.

2058458117

25 
JEAN M. MAHON
Notary Public, State of New York
No. 4812992
Qualified in New York County
Commission Expires 3/31/97 30, 1996

MANHATTAN REPORTING CORP.

Han

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, JACK FINZ, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That VICTOR HAN, the witness whose continued deposition is hereinbefore set forth (pages 405 through 595) was previously duly sworn, and that such continued deposition is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of June, 1995.



JACK FINZ, C.S.R.

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Han

E X H I B I T S

DESCRIPTION

PAGE LINE

(Han Exhibit 24 for identification,
three-page letter dated February 25,
1994, to Scott D. Ballin, from
Commissioner Kessler, production
numbers PA 100347 through PA 100349,
and 2023913526 through 2023913528.)..... 431 7

(Han Exhibit 25 for identification,
memorandum dated February 28, 1994, to
The Members of the Executive Committee
from Samuel D. Chilcote, Jr.)..... 445 3

(Han Exhibit 26 for identification,
document entitled "R.J. Reynolds
Responds to FDA.")..... 462 11

(Han Exhibit 27 for identification,
two-page document entitled "Philip
Morris Statement, March 1, 1994.")..... 505 2

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Han

E X H I B I T S (Continued:)

DESCRIPTION

PAGE LINE

(Han Exhibit 28 for identification,
document bearing production number PA
283544 and 2022997809.)..... 513 8

(Han Exhibit 29 for identification,
document entitled "Philip Morris
Responds to Allegations that the Company
Adds Nicotine to its Products.")..... 514 4

(Han Exhibit 30 for identification,
two-page document, media calls report
for February 24-March 3, 1994.)..... 517 11

(Han Exhibit 32 for identification,
four-page document dated March 3, 1994,
from William I. Campbell to All PM New
York Office/Ryebrook Employees.)..... 529 21

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Han

E X H I B I T S (Continued:)

DESCRIPTION

PAGE LINE

(Han Exhibit 33 for identification,
inter-office correspondence dated March
4, 1994, to Distribution, from
Victor Han.)..... 537 9

(Han Exhibit 34 for identification,
August 17, 1993 fax transmission from
Kathleen Linehan to a distribution list
with attachments.)..... 558 8

(Han Exhibit 35 for identification,
memo from Victor Han to Distribution,
dated March 7, 1994, entitled "Day
One-Part 2.")..... 582 4

(Han Exhibit 36 for identification,
two-page document.)..... 588 6

(Han Exhibit 37 for identification,
memo dated March 8, 1994 from William
Campbell to All Philip Morris New York
Office/Ryebrook Employees.)..... 590 13

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